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THE DEPARTMENT OF STATE

The author is anxious to express a sincere hope that others of his fellow countrymen, profiting by what may be useful, avoiding what may be erroneous, supplying what may be defective in his labors, may by them be stimulated to undertake and execute a better treatise upon the same subject.—*Phillemore's International Law, preface, XXIII.*

THE DEPARTMENT OF STATE
OF THE
UNITED STATES

ITS HISTORY AND FUNCTIONS

By
GAILLARD HUNT, LITT.D., LL.D.
Lately Chief of the Bureau of Citizenship
Department of State

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To Alvey Augustus Adee, Esquire,

The Second Assistant Secretary of State.

My dear Mr. Adee,

Long years of delightful association as one of your subordinates in the State Department taught me to know how much the Department owes to you. You have given your life to its service. You have brought to that service diversified scholarship, peculiar aptitude, unselfish loyalty and a gentleman's sense of honor. You have guided our foreign relations through a hundred storms. The best traditions of the Department are personified in you. I beg you to accept this history, because there is no one else to whom it can so appropriately be dedicated, and because I wish to give myself the gratification of once more subscribing myself

Your friend,

Gaillard Hunt.

Washington, April 6, 1914.

PREFACE

IN 1893 I prepared, as a part of the exhibit of the Department of State at the World's Fair at Chicago, an historical sketch of the Department, which it subsequently reprinted for its use. This sketch furnished the basis of two briefer pamphlets on the same subject, one for the Exhibition at Omaha in 1898 and the other for the Buffalo Exhibition in 1901. Beginning in October, 1907, and running until October, 1912, the *American Journal of International Law* printed the completer study of the Department which, with some rearrangement and additions, constitutes this volume. Remarkable to say, it is the only historical study of one of the Executive Departments that has thus far appeared.

My object has been to show the formation and development of the Department of State and what its chief duties are and have been. I have written no diplomatic history of the United States, or biographical sketches of the Secretaries of State. My concern has been with the machine of which the foreign service is a part and whose movements the Secretary of State directs.

There are many long citations from laws, circulars, and regulations here; but they tell the story more accurately than a paraphrase could do, and I wish to make this book definitive, as far as it goes. The

authorities which I have used are indicated in the notes; but the most important facts in the book are those which I found in the records from time to time during my many years of service in the Department, or learned personally from my colleagues, whom I like to think of as my friends.

G. H.

CONTENTS

I.	The Committee for Foreign Affairs	1
II.	The Department of Foreign Affairs, I	14
III.	The Department of Foreign Affairs, II	38
IV.	The Creation of the Department of State	54
V.	The New Department	79
VI.	Sometime Duties of the Department	117
VII.	Occasional Duties of the Department	158
VIII.	Subdivisions of the Department, I	187
IX.	Subdivisions of the Department, II	210
X.	The Seal. Commissions. Appointments	248
XI.	The Laws	275
XII.	The Constitution. Chief Publications. Library. Relics. Objects of Art	314
XIII.	The Diplomatic and Consular Service	331
XIV.	Passports. Authentications. Registrations	350
XV.	Authentications. Introductions	383
XVI.	Treaties. Extradition. Classification of Correspondence. Distribution of Duties	396
XVII.	Buildings occupied	427
	Bibliographical Note	438

THE DEPARTMENT OF STATE

CHAPTER I

THE COMMITTEE FOR FOREIGN AFFAIRS

THE first Congress of the Revolution assembled in Carpenters' Hall, Philadelphia, September 5, 1774. An address to the King of England was adopted on October 25, and transmitted to the agents of several of the colonies in London, with instructions to present it to the King. They were to ask the aid of such Englishmen as they might have reason to believe were "friends to American Liberty." The instructions were drafted October 26, 1774, by Richard Henry Lee, and were sent to Paul Wentworth, who represented New Hampshire, Charles Garth, a member of Parliament, the agent of South Carolina, William Bollan, agent of the Massachusetts Council, Thomas Life, the agent of Connecticut, Edmund Burke, who had been chosen agent of New York in 1771, Arthur Lee, who held an appointment to succeed Benjamin Franklin as agent of the Massachusetts Assembly, and Franklin himself, who had been appointed in 1765 agent of Pennsylvania, in 1768 of Georgia, in the same year of New Jersey, and in 1770 of the Massachusetts Assembly.[1] For the first time, these agents were deputed to act for the United Colonies, but Bollan, Lee, and Franklin, who alone, according to Franklin,

[1] *Journals of the Cont. Cong.* (Library of Congress edition), I, 104, *et seq.*

"properly had anything to do with the tea business,"[1] were the only ones who accepted the service. Their duties were, to a certain extent, diplomatic, and they were the representatives of a power that was soon to become independent.

Before separation from England was actually determined upon, it was resolved that the Continental Congress should conduct the foreign affairs of the colonies. The sketch of Articles of Confederation submitted July 21, 1775, by Franklin contained these words in Article V:

> That the power and duty of Congress shall extend to the determining on war and peace; *the sending and receiving ambassadors, and entering into alliances* (*the reconciliation with Great Britain*).[2]

This proposed article pointed to the approaching declaration of independence, as the sending and receiving of ambassadors and forming alliances were attributes of sovereignty.

After independence had been declared, Articles of Confederation and Perpetual Union, prepared by John Dickinson of New Jersey, were proposed on July 12, 1776. Article XVIII declared:

> The United States assembled shall have the sole and exclusive right and power—of determining on peace and war, ... sending and receiving ambassadors under any character, entering into treaties and alliances, etc.

The draft of the Articles submitted by the committee of the whole, August 20, was to the same effect,[3]

[1] *Works* (Bigelow), V, 509.
[2] *Journals of Cong.*, II, 195.
[3] *Ibid.*, V, 550, 674.

and this appeared as Article IX in the Articles bearing date July 9, 1778, and finally ratified March 1, 1781.[1] After the colonies had formed a union none of them attempted to separately conduct any foreign affairs of consequence.

The channel through which flowed all action relating to the rest of the world being the Congress, that body made its first effort to provide for a subordinate committee which should have immediate charge of the subject on November 29, 1775, when the Committee of Secret Correspondence was created by the following resolutions:

Resolved, that a committee of five be appointed for the sole purpose of corresponding with our friends in Great Britain, Ireland, and other parts of the world, and that they lay their correspondence before Congress when directed.

Resolved, that this Congress will make provision to defray all such expenses as may arise by carrying on such correspondence, and for the payments of such agents as they may send on this service.

The members chosen: Mr. Harrison, Dr. Franklin, Mr. Dickinson, Mr. Johnson and Mr. Jay.[2]

Franklin was the chairman and guiding spirit. The Committee at once opened correspondence with several residents of Europe, chief among whom were Arthur Lee, who was instructed to communicate with Count Vergennes, in Paris, and Charles W. F. Dumas, a Swiss gentleman, then residing at The Hague, a friend of Franklin's and a student of international law. The first representative sent by the committee

[1] *Journals of Cong.,* XIX, 217.
[2] *Ibid.,* III, 392.

abroad was Silas Deane of Connecticut. His instructions, dated March 3, 1776, are to appear in France "in the character of a merchant," as the "Court of France may not like it should be known publicly that any agent from the Colonies is in that country," but to confide to Count Vergennes that he has come "upon business of the American Congress." He is to endeavor to obtain arms and ammunition for the defense of the colonies, and to ascertain whether, in the event of their being "forced to form themselves into an independent state," France would feel disposed to enter into a treaty of friendship and alliance with them.[1]

September 26, 1776, the mission to France was made a commission, with Deane, Franklin, and Thomas Jefferson as the members. They were elected by Congress, and a committee composed of Robert Morris, Richard Henry Lee, George Wythe, and John Adams was chosen "to prepare the draft of letters of credence" to the commissioners and their instructions.[2] Jefferson declining to serve, Arthur Lee was elected in his place.[3]

It was decided later to send commissioners to other European states, and on January 2, 1777,

> The Committee of Secret Correspondence brought in the form of a commission to B. Franklin, commissioner to the court of Spain, which was read, and after debate:
>
> Resolved, that it be recommitted to a committee of three.

[1] *Diplomatic Correspondence of the American Revolution* (Wharton), II, 78.

[2] *Journals of Cong.*, V, 827, 828.

[3] *Ibid.*, VI, 897.

The members chosen were Samuel Chase, James Madison, and John Adams.[1]

The commission, as finally approved, began:

> Whereas a friendly and commercial connection between the subjects of his Catholic Majesty the King of Spain and the people of these states will be beneficial to both nations,

and gave him power to form a treaty of friendship and "for assistance in carrying on the present war between Great Britain and these United States." Arthur Lee was also commissioned for Spain, the commission bearing date June 5, 1777. William Lee was commissioned for Germany and Prussia, July 1, 1777, and Ralph Izard for Tuscany. William Lee was also elected commissioner to Vienna, but he was never commissioned.[2] The envoys to Germany, Prussia, Tuscany, and Austria never performed any diplomatic functions at those courts.

On January 30, 1776, Robert Morris was added to the Committee of Secret Correspondence; on October 11, Richard Henry Lee, John Witherspoon, and William Hooper.[3] This completes the list of those who served upon it. Its functions, after its first action, were unimportant, all the instructions to the commissioners abroad being drawn up by Congress upon reports of special committees. Arthur Lee and Thomas Morris, who acted as the commercial agents of the colonies while the committee was still in existence, did not correspond with it, but were under the

[1] *Journals of Cong.*, VII, 9.
[2] *Ibid.*, VIII, 519, *et seq.*
[3] *Ibid.*, VI, 1067.

jurisdiction of the Secret Committee of Congress, a separate committee from the Committee of Secret Correspondence.

On April 17, 1777, the title of the committee was changed, and it became the "committee for foreign affairs." The first members were Benjamin Harrison, Robert Morris, Thomas Hayward, Jr., and James Lovell.

The first secretary was Thomas Paine. He was elected April 17 and his salary fixed at $70 per month.[1] The selection of so conspicuous a man indicates an intention on the part of Congress to make the secretary of the committee something more than a clerk; and Paine conceived himself to be in some sort a secretary for foreign affairs. He did not perform his duties to the satisfaction of Congress, however, and was dismissed January 16, 1779, for making an official matter public. On that day the papers of the committee were taken out of his hands.[2]

The chief function of the committee was to furnish the agents of the government abroad with accounts of the course of events in America. Beyond that it acted simply as an agent to execute the orders of Congress. The members were constantly changed, and the communications reflected the opinions of those who happened to be serving at the time they were sent.

Communications relative to foreign affairs were usually referred by Congress to special committees;

[1] *Journals of Cong.*, VII, 274.

[2] Conway, *Life of Thomas Paine*, I, 90, *et seq.* Cont. Cong. MSS., Lib. Cong., 55, 17, *et seq.*

and May 1, 1777, less than a month after the Foreign Affairs Committee had been instituted, James Wilson, John Adams, and Richard Henry Lee were selected a committee to

> inquire into the laws and customs of nations respecting neutrality, and to report their opinion, whether the conduct of the King of Portugal, in forbidding the vessels of the United States to enter his ports, and ordering those already there to depart at a short day is not a breach of the laws of neutrality.[1]

Inquiries of this character, it might reasonably be expected, should have fallen within the functions of the Foreign Affairs Committee, but rarely did so.

The communications of the committee were usually signed by several of the members; but James Lovell signed them—often "for the committee"—continuously up to the time the committee was superseded by the department of foreign affairs. He was the most active member of the committee and its business was carried on chiefly by him. He was a Boston school teacher, born in that town October 31, 1737, and graduated from Harvard in 1756. After Bunker Hill battle he was imprisoned by the British, but was exchanged and entered Congress in December, 1776, serving till 1782. In 1779, he was one of the committee that drew up a design for the arms of the United States, but it was rejected. He espoused General Gates's cause against Washington. He is represented as having been a man of unusual learning, but

[1] *Journals of Cong.*, VII, 318.

of such eccentricities of manners and speech as to lead at times to a doubt of his sanity.[1] Other members of the committee were: William Henry Drayton of South Carolina, William Duer of New York, and Jonathan Bayard Smith of Pennsylvania, who were elected June 1, 1778; Eliphalet Dyer of Connecticut, elected February 24, 1779, in place of Oliver Ellsworth, whose election on the committee is not recorded; William Churchill Houston of New Jersey, and Robert R. Livingston of New York, who were elected November 24, 1779.[2] It appears that John Witherspoon also served as a member of the committee in October, 1779.[3]

The first public recognition of the independence of the United States by a foreign power was recorded in the treaty of amity and commerce and of alliance eventual and defensive between the United States and France, signed at Paris, February 6, 1778, by Benjamin Franklin, Silas Deane, and Arthur Lee, on the part of the United States, and by Conrad Alexander Gérard, on the part of France; and following this treaty, in July, 1778, came Gérard, the first representative of a foreign state to the United States. He was styled minister plenipotentiary, and bore a commission also as consul-general.[4]

Soon after his arrival, he transmitted to the President of Congress a copy of the speech he intended to

[1] Austin, *Life of Elbridge Gerry*, I, 336.
[2] *Journals of Cong.*, XV, 1445.
[3] *Ibid.*, XV, 1168.
[4] *Dip. Cor. Amer. Rev.*, II, 522.

deliver at his first audience, and it was referred on July 14, with the question of the time and manner of his public reception, to Richard Henry Lee, Samuel Adams, and Gouverneur Morris. The report drafted by Morris was presented July 17. It said:

> That Ministers being of three different classes, viz: 1. Ambassadors; 2. Ministers Plenipotentiary and Envoys; and 3. Residents, it will be necessary to establish a ceremonial for each according to their respective Dignity. That your Committee report for an Ambassador the following ceremonial, viz:
>
> When he shall arrive within any of the United States he shall receive from any Battery, Fort or Castle the same salute or other Honors which are paid to the Flag of the Prince or State which he shall represent and also at all places where there are guards, centries and the like he shall receive the same military honors and respect which are paid to a general officer in the service of the United States of the highest rank. When he shall arrive at the Place which the Congress shall be, he shall wait upon the President and deliver his credentials or copies thereof. Three members of Congress shall then be deputed to wait upon him, and inform him when and where he shall receive audience of Congress.

For a resident minister the committee proposed to omit the honor of escort by three members of Congress and to substitute a master of ceremonies. The other ceremonies were modified in proportion.

The consideration of so much of this report as related to ambassadors and resident ministers was postponed as unnecessary at the time.[1] The ceremonies in the case of ministers plenipotentiary were

[1] *Journals of Cong.*, XI, 698, *et seq.*

prescribed in the following resolutions which were adopted July 20:

At the time he is to receive his audience, the two members [who are to act as his escort] shall again wait upon him in a coach belonging to the States; and the person first named of the two shall return with the minister plenipotentiary or envoy in the coach, giving the minister the right hand and placing himself on his left, with the other member on the front seat.

When the minister plenipotentiary or envoy is arrived at the door of the Congress hall, he shall be introduced to his chair by the two members, who shall stand at his left hand. Then the member first named shall present and announce him to the President and the house; whereupon he shall bow to the President and the Congress, and they to him. He and the President shall again bow unto each other, and be seated; after which the house shall sit down.

Having spoken and been answered, the minister and President shall bow to each other, at which time the house shall bow, and then he shall be conducted home in the manner in which he was brought to the house.

Those who shall wait upon the Minister, shall inform him, that, if in any audience he shall choose to speak on matters of business, it will be necessary previously to deliver in writing to the President, what he intends to say at the audience; and if he shall not incline thereto, it will, from the Constitution of Congress, be impracticable for him to receive an immediate answer.

The style of address to Congress shall be "Gentlemen of the Congress."

All speeches or communications in writing may, if the public minister choose it, be in the language of their respective countries. And all replies, or answers, shall be in the language of the United States.

After the audience, the members of Congress shall be first visited by the Minister Plenipotentiary or Envoy.[1]

These ceremonies were followed when the French minister had his first audience, August 6, 1778. The committee of foreign affairs did not participate in the ceremonies as a committee. The communications of the French minister were sent direct to the President of Congress, and were considered by the whole Congress after having been reported upon by some special committee. Upon occasion, in the event of some communication of importance, the President of Congress would declare that, in his opinion, it was expedient that the Congress and the minister should confer. The latter would then meet the Congress in committee of the whole, and the result of the interview would be reported to the Congress itself. The minister held the right to be present, however, when foreign affairs were being discussed, and thus became a factor in the conclusions reached. His dispatches to his government are in themselves a record of the proceedings of the Congress.

The discussion of negotiating a treaty of peace with Great Britain began in Congress early in 1779, and August 4, a committee of five was selected "to prepare instructions for the minister plenipotentiary of these United States to be appointed for negotiating a treaty of peace." August 13, Gouverneur Morris, Henry Laurens, Samuel Huntington, John Dickinson, and Thomas McKean, the members chosen, submitted a

[1] *Journals of Cong.*, XI, 707.

draft by Gouverneur Morris, which was debated paragraph by paragraph and adopted the next day.[1] This was the method usually pursued in the case of important communications, the foreign affairs committee having no participation in their preparation.

Only occasionally was there any recognition of the committee. October 13, 1779, when the question of the pecuniary allowances for Jay as a commissioner to negotiate a peace was referred to a special committee, it was further "ordered that Mr. Witherspoon and Mr. Lovell, members of the committee for foreign affairs," be added to the special committee[2] and on May 19, 1780, Congress having drawn on Franklin and Jay for $25,000 each, in order to pay the expenses of the government, the foreign affairs committee was instructed, May 31, to inform Franklin and Jay of the drafts.[3] The committee also made a few reports during the ensuing months, but it had no real power and there was a decided opposition in Congress to giving it any.

"On the one hand," says Dr. Francis Wharton, "it was maintained that our relations with foreign nations ought to be freed from the artificial shackles which international law had imposed, and that we should approach them with blunt simplicity, demanding not only recognition, but aid. In other words 'militia' diplomatists, to use John Adam's illustration, sometimes gain victories over regular troops, even by departing from the rules."[4]

[1] *Journals of Cong.*, XIV, 922, *et seq.*
[2] *Ibid.*, XV, 1168.
[3] *Ibid.*, XVII, 475.
[4] *Dip. Cor. Amer. Rev.*, I, 289.

From Madrid, October 27, 1780, John Jay wrote to Lovell:

I would throw stones, too, with all my heart, if I thought they would hit only the committee without injury to the members of it. Till now I have received but one letter from them, and that not worth a farthing, though it conveyed a draft for one hundred thousand pounds on the bank of hope. One good private correspondent would be worth twenty standing committees, made of the wisest heads in America, for the purpose of intelligence.[1]

April 23, 1781, he wrote Charles Thomson, the Secretary of Congress:

I wish in my heart that you were not only secretary of Congress, but secretary also for foreign affairs. I should then have better sources of intelligence than gazettes and reports.[2]

"But there is really," wrote Lovell to Arthur Lee, August 6, 1779, "no such thing as a committee of foreign affairs existing—no secretary or clerk further than I persevere to be one and the other. The books and the papers of that extinguished body lay yet on the table of Congress, or rather are locked up in the secretary's private box. There was a motion, as I have before told you, to choose a new committee; the house would not so insult *me*. An indifference then took place as to filling the old one, upon presumption, I suppose, that a little leaven would leaven the whole lump."[3]

[1] *Correspondence and Public Papers of John Jay,* I, 440.
[2] *Dip. Cor. Amer. Rev.,* IV, 381.
[3] *Ibid.,* III, 288.

CHAPTER II

THE DEPARTMENT OF FOREIGN AFFAIRS

I

THAT some system must be introduced to take the place of the existing chaos in the machinery for managing the increasing foreign affairs of the country became so apparent that Congress finally took the matter up seriously. On January 10, 1781, it considered the following "plan for the department of foreign affairs."

That the extent and rising power of these United States entitle them to a place among the great potentates of Europe, while our political and commercial interests point out the propriety of cultivating with them a friendly correspondence and connection.

That to render such an intercourse advantageous, the necessity of a competent knowledge of the interests, views, relations, and systems of those potentates, is obvious.

That a knowledge, in its nature so comprehensive, is only to be acquired by a constant attention to the state of Europe, and an unremitted application to the means of acquiring well-grounded information.

That Congress was, moreover, called upon to maintain with our ministers at foreign courts a regular correspondence, and to keep them fully informed of every circumstance and event which regards the public honour, interest and safety.

That to answer these essential purposes, the committee are of opinion, that a fixed and permanent office for the department of foreign affairs ought forthwith to be established,

as a remedy against the fluctuation, the delay and indecision to which the present mode of managing our foreign affairs must be exposed:

Whereupon,

Resolved: That an office be forthwith established for the department of foreign affairs, to be kept always in the place where Congress shall reside.

That there shall be a secretary for the despatch of business of the said office, to be styled "secretary for foreign affairs."

That it shall be the duty of the said secretary to keep and preserve all the books and papers belonging to the department of foreign affairs, to receive and report the applications of all foreigners; to correspond with the ministers of the United States at foreign courts, and with the ministers of foreign powers and other persons, for the purpose of obtaining the most extensive and useful information relative to foreign affairs, to be laid before Congress when required; also to transmit such communications as Congress shall direct, to the ministers of these United States and others at foreign courts, and in foreign countries; the said secretary shall have liberty to attend Congress, that he may be better informed of the affairs of the United States, and have an opportunity of explaining his reports respecting his department; he shall also be authorized to employ one or if necessary more clerks to assist him in his office; and the secretary as well as such clerks, shall, before the president of Congress take an oath of fidelity to the United States, and an oath for the faithful execution of their respective trusts.[1]

This report was drawn up by James Duane of New York, and debated freely before it was adopted. As the report was first written it began:

That your committee are further of opinion that the most effectual mode of conducting the business of the Department

[1] *Journals of Cong.*, XIX, 43.

of foreign affairs would be through a minister vested with confidential powers after the example of other nations, responsible for his trust and under the immediate direction of Congress.

That there are however, obstacles to be apprehended which may retard the introduction of such a plan, and as a provision which can be carried into immediate practice is indispensibly necessary, your committee therefore submit the following resolution.

It is apparent that there was sentiment in favor of an effective, powerful ministry of foreign affairs, and that the Department provided for was regarded as a makeshift. The following clause was offered by the committee and negatived by Congress:

That a committee of congress consisting of three members of whom the President shall always be one shall have the superintendance and direction of the Department of foreign affairs and that the Secretary for foreign affairs shall be subject to their instructions and submit all his correspondence and proceedings to their inspection.[1]

On January 17, the salary of the Secretary was fixed at $4,000 per annum, "exclusive of office expenses," and on the same day, James Mitchell Varnum of Rhode Island nominated Robert R. Livingston to be Secretary, and Thomas McKean of Delaware nominated Arthur Lee of Virginia.[2] No election took place, and on February 7, Jesse Root of Connecticut nominated Richard Law of that state.[3]

It was not until August 10 that, on motion of William Floyd of New York, Robert R. Livingston

[1] *Journals of Cong.*, XIX, 44.
[2] *Ibid.*, XIX, 64, 65.
[3] *Ibid.*, XIX, 125.

of New York was elected Secretary. He had been a member of the committee of foreign affairs for a brief period in 1779; but he declined the new office, until informed of the extent of his powers. Having been satisfied on this score, he accepted, September 23. Until then Lovell acted for the old committee, his last communication bearing date September 20.[1]

Livingston's commission was dated October 1, 1781:

> The United States in Congress Assembled
>
> To Robert R. Livingston, Esq., greeting:
>
> We reposing especial trust and confidence in your fidelity, diligence and ability have constituted and appointed and by these presents do constitute and appoint you the said Robert R. Livingston to be our Secretary for Foreign Affairs, hereby giving and granting to you all powers privileges, authorities and immunities which to the said office of Secretary for foreign affairs now do or hereafter may belong or appertain.
>
> Witness his excellency Thomas McKean, Esq., President of Congress at Philadelphia the first day of October in the year of our Lord one thousand seven hundred and eighty-one and in the sixth year of our Independence.[2]

Upon Livingston devolved the task of forming a new department. He wrote, soon after he took office, to Count Vergennes, informing him of the change.

"Congress," he said, "having thought it expedient to dissolve the committee of their own body, by whom their foreign affairs had hitherto been conducted, and to submit the general direction of them (under their inspection) to a Secretary for Foreign Affairs I do myself the honour to inform Your Excellency that they have been pleased to appoint me to

[1] *Journals of Cong.*, XXI, 851.

[2] Cont. Cong. MSS., Lib. Cong., 49, folio 89.

that Department, and to direct me to correspond in that capacity with the Ministers of Foreign Powers.''

He also informed Franklin, John Adams, Dana, and Jay, our ministers abroad, as soon as he took office.[1] He started record books, and endeavored to give system to the conduct of business; but the functions of his department were ill-defined, and Congress continued the custom of appointing special committees to consider diplomatic communications. He did not have free access to the books of Congress, for on October 30, 1781, ''A letter, of 29, from the secretary of foreign affairs was read, requesting to be permitted to examine and copy from such books of a secret nature in the Secretary's office as may in any wise relate to the department of foreign affairs,'' and the request was granted.[2]

The civil list for the year 1781 shows that the whole Department comprised three men, the Secretary, with a salary of $4,000 per annum, the First Under-Secretary, Lewis R. Morris, at $800, and the Second Under-Secretary, Peter S. Du Ponceau, at $700.[3]

January 25, 1782, Livingston set forth the difficulties surrounding the administration of the business of his office in a letter to the President of Congress. He thought it his duty, he said, to call the attention of Congress to some things which had been omitted in the scheme of organization of his Department which ought to be supplied and others which ought to be

[1] Dept. of State MSS., Letters of Livingston.
[2] *Journals of Cong.*, XXI, 1085.
[3] Cont. Cong. MSS., Lib. Cong., 49, folio, 577.

omitted. As he was to correspond with American ministers abroad and foreign ministers in the United States, it was necessary that his letters should reflect the sentiments of Congress, which in this country was the sovereign. This he found to be a difficult task, as the sentiments often changed and were often imperfectly expressed. There were occasions, too, when he should properly speak a sentiment which it would be improper for Congress to declare by a public act. It was true that he was permitted to attend the sessions of Congress in order to inform himself and to explain his reports, but he was puzzled to know how to ascertain the sentiments when he attended, as the debates often did not take the turn he wished and left him in ignorance of the only point on which he desired to gain light. He thought that he might shorten debates and gain more information if he might be permitted to ask questions. He did not wish to assume this liberty, unless it was expressly given to him. He was also without power to act upon matters not of sufficient moment to engage the attention of Congress,

as for instance, application for aid in procuring the release of an American taken under particular circumstances in English ships, and confined in the French West Indies, or elsewhere, claims upon prizes carried in the French Islands, etc., which cases occur every day and are attended with long Memorials which would take up much of the time and attention of Congress.

He had hitherto transacted this business with the French minister, and the governors and generals of

the French islands, but he wished authority from Congress for doing so. He kept a book in which all such applications and the action taken were entered. He presumed that some alteration should be made in matters of form and ceremony, in conformity with the practice of other nations, and also to derive the advantages they sometimes afforded of creating delays, "and concealing for political reasons" the views of Congress. As Congress had given him the power of appointing clerks, he had appointed two, who were barely a sufficient number to perform the duties, which were much greater than he had imagined they would be. Five copies beside the draft of every foreign letter or paper transmitted were necessary. To copy all the letters which had already been received, the secret journals, and the extracts relating to foreign affairs in the files of Congress, which he thought a very necessary work, would be impossible without further aid for at least one year. He wished instructions as to the number of clerks he might employ and their salaries. An interpreter was a necessity for his Department and the admiralty, and he recommended that one be appointed who could also assist him as a secretary. As it was a delicate matter for him to point out a mode for extending his own powers he refrained from doing so.[1]

As soon as this letter had been read, Congress appointed William Ellery of Rhode Island, Edmund Randolph of Virginia, and Nicholas Eveleigh of South Carolina a committee to confer with Livingston.

[1] Dept. of State MSS., Letters of Livingston.

They made an inventory of the Department; reporting February 21, 1782:

List of books and papers kept in the office of foreign affairs.

BOOKS.

1. Book of Foreign Letters.
2. Book of American Letters.
3. Book of Resolutions of Congress.
4. Journal of daily Transactions.
5. Book of reports made to Congress.
6. Letters of the late Comm. for foreign affairs.
7. A book containing commissions and instructions to the ministers at foreign courts.
8. One more do.
9. A book of the letters of the commissioners in France while Mr. Adams was among them.
10. Communications of Monsr. Gerard.
11. Do. of the Chv. de la Luzerne,
12. Letters of Mr. J. Adams,
13. Letters of Mr. Arthur Lee.

} not completed.

PAPERS.

1st Box.
1. Joint Letters from the Commrs. of Congress at Paris.
2. Letters from the Hon. B. Franklin.
3. Letters from the Hon. B. Laurens.
4. Letters from the Hon. J. Laurens.
5. Letters from Mr. T. Barclay.
6. Correspond. betw. Mr. Adams & Count Vergennes.

2nd Box.
1. Letters from Hon. J. Jay.
2. Letters from the Hon. W. Carmichael.
3. Letters from Mr. R. Harrison.

3rd Box.
1. Letters from Hon. John Adams.
2. Letters from F. Dana, Esq.

4th Box.
1. Letters from Mr. Dumas.
2. Letters from Mr. J. De Neuville.

5th Box.	Letters from Messrs. Deane, Izard &c.
6th Box.	Letters from Messrs. Bingham, Parsons &c.
7th Box.	Letters, notes, memorials and communications to the Chv. de la Luzerne.
8th Box.	Original papers relative to complaints referred to the office of foreign affairs.
9th Box.	Miscellaneous letters & papers

The report said:

The United States having risen to importance, and taken their place among Sovereign and Independent nations, are called upon to secure their extensive territories and maintain their political interests by cultivating the friendship and alliance of other Sovereigns and by guarding against the machinations of the designing and ambitious. In order to which, Ministers and Agents have been appointed, to study the interests, views and designs of Courts at which they reside, to declare the principles of justice and moderation by which the United States propose to govern themselves, and to express on various occasions their sentiments. That these sentiments may be fully known to their ministers, some regular channel of communication should be opened; and that the governing power of the United States should not remain ignorant of the views and designs of foreign nations, which must regulate their conduct towards them, means should be fallen upon to direct the inquiries of their ministers, and so to collect and digest their information, as to render it useful to Congress.

These together with the various details, which are created by connection with other nations, has induced the United States in Congress assembled, to resolve,—

Resolved, That the department of foreign affairs be under the direction of such officer as the United States in Congress assembled have already for that purpose appointed, or shall hereafter appoint, who shall be styled "Secretary to the

United States of America for the Department of Foreign Affairs,'' shall reside where Congress or the Committee of the States shall sit, and hold his office during the pleasure of Congress.

That the books, records and other papers of the United States that relate to this department, be committed to his custody, to which, and all other papers of his office, any member of Congress shall have access; provided that no copy shall be taken of matters of a secret nature without the special leave of Congress.

That the correspondence and communications with the ministers, consuls and agents of the United States in foreign countries, and with the ministers and other officers of foreign powers with Congress, be carried on through the office of foreign affairs by the said secretary, who is also empowered to correspond with all other persons from whom he may expect to receive useful information relative to his department; provided always, that letters to ministers of the United States, or ministers of foreign powers, which have a direct reference to treaties or conventions proposed to be entered into, or instructions relative thereto, or other great national subjects, shall be submitted to the inspection and receive the approbation of Congress before they shall be transmitted.

That the Secretary for the department of foreign affairs correspond with the governours or presidents of all or any of the United States, affording them such information from his department as may be useful to their states or to the United States, stating complaints that may have been urged against the government of any of the said states, or the subjects thereof, by the subjects of foreign powers, so that justice may be done agreeably to the laws of such state, or the charge proved to be groundless, and the honour of the government vindicated.

He shall receive the applications of all foreigners relative to his department, which are designed to be submitted to Congress, and advise the mode in which the memorials and

evidence shall be stated, in order to afford Congress the most comprehensive view of the subject; and if he conceives it necessary, accompany such memorial with his report thereon. He may concert measures with the ministers or officers of foreign powers amicably to procure the redress of private injuries, which any citizen of the United States may have received from a foreign power, or the subjects thereof, making minutes of all his transactions relative thereto and entering the letters at large which have passed on such occasions.

He shall report on all cases expressly referred to him for that purpose by Congress, and all others touching his department, in which he may conceive it necessary.

And that he may acquire that intimate knowledge of the sentiments of Congress which is necessary for his direction, he may at all times attend upon Congress; and shall particularly attend when summoned or ordered by the President.

He may give information to Congress respecting his department, explain and answer objections to questions to his reports when under consideration, if required by a member, and no objection be made by Congress. He shall answer to such inquiries respecting his department as may be put from the Chair by order of Congress, and to questions stated in writing about matters of fact which lie within his knowledge, when put by the President at the request of a member, and not disapproved of by Congress; the answers to such questions may, at the option of the secretary, be delivered by him in writing. He shall have free access to the papers and records of the United States in the custody of their secretary, or in the offices of finance and war or elsewhere; he may be furnished with copies or take extracts therefrom, when he shall find it necessary.

He shall use means to obtain from the ministers and agents of the said United States in foreign countries an abstract of their present state, their commerce, finances, naval and military strength, and the characters of sovereigns and

ministers, and every other political information which may be useful to the United States. All letters to sovereign powers, letters of credence, plans of treaties, conventions, manifestoes, instructions, passports, safe-conducts and other acts of Congress relative to the department of foreign affairs, when the substance thereof shall have been previously agreed to in Congress, shall be reduced to form in the office of foreign affairs, and submitted to the opinion of Congress; and when passed, signed and attested, sent to the office of foreign affairs to be countersigned and forwarded.

If an original paper is of such a nature as cannot be safely transmitted without cyphers, a copy in cyphers, signed by the secretary for the department of foreign affairs, shall be considered as authentick, and the ministers of the United States at foreign courts may govern themselves thereby in the like manner as if the originals had been transmitted. And for the better execution of the duties hereby assigned him, he is authorized to appoint a secretary and one, or if necessary, more clerks, to assist him in the business of his office.

Resolved, That the salaries annexed to this Department shall be as follows:

To the secretary of the United States for the department of foreign affairs, the sum of four thousand dollars per annum, exclusive of office expenses to commence from the first day of October last.

To the secretary, one thousand dollars per annum.

To the clerks, each five hundred dollars per annum.

Resolved, That the secretary for the department of foreign affairs, and each of the persons employed under him, shall take an oath before a judge of the state where Congress shall sit, for the faithful discharge of their respective trusts, and an oath of fidelity to the United States, before they enter upon office.

Resolved, That the act of the 10th of January, 1781, respecting the department of foreign affairs, be and hereby is repealed.

The committee also offered the following, which was struck out by Congress:

Resolved, that a seat be assigned him in Congress, which he shall take on the order of the house expressed either upon the motion of a member, or in consequence of his request in writing directed to the President. That when he shall have taken his seat, and not before, he shall be considered as officially in Congress, and may give information respecting his Department, explain and answer objections to his reports, when under consideration, and state such questions as may be necessary for his information. He shall answer from his seat to such inquiries, respecting his department, as may be put from the chair, by order of Congress, and to questions stated in writing about matters of fact which lie within his knowledge, when put by the President at the request of a member, and not disapproved of by Congress. The answer to such questions may, at the option of the Secretary be delivered by him in writing.

The following was also proposed but disapproved:

An interpreter shall also be annexed to this Department to be appointed by Congress, who besides the duties required of him by the Secretary for foreign affairs, shall serve when required as interpreter to the United States in Congress their respective boards and the court of appeals.[1]

The act was passed February 22, 1782. It met the objections of Livingston, defined his duties, and greatly enlarged them. He could correspond independently on business relating to his Department, provided that letters relating to "great national objects" should be submitted to Congress. He was

[1] The report and act are in Cont. Cong. MSS., Lib. Cong., 25, II, folio 63.

to advise Congress how to treat applications of foreigners. He could settle private complaints against foreign powers. He must attend Congress and could answer questions and explain his reports. He now had free access to all the records of Congress. He must reduce to proper form all communications with foreign governments. Here was something approaching a foreign office, and a great step in advance of the Act of January 10, 1781. The Secretary was, however, dependent upon the will of Congress in small things as well as large. On February 27, 1782, he asked for leave of absence and his request was referred to a committee. It was reported through the chairman, John Morin Scott of New York, that he had given sufficient reason, and it was recommended that he be allowed to absent himself for a few weeks. Accordingly he was granted the leave March 4.[1]

The inventory of the Department shows how the foreign establishment had grown. It now included such agents as independent nations commonly employed. Besides the ministers were two consuls.

On March 1, 1782, the act was modified so as to permit the appointment of two Under-Secretaries of Foreign Affairs at salaries of $800 and $700 per annum respectively, in the place of the secretary to the Secretary, but this was confirmatory of the practice which Livingston had already been permitted to follow.

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 79.

Communications from our ministers abroad now regularly came to Livingston, and were by him submitted to Congress, and the replies were sent through him. The French minister, however, communicated occasionally directly with Congress.

The condition in which our missions abroad were during Livingston's administration was indicated by him in a letter which he sent to Congress May 8, 1782. As to the method of living of the ministers, he reported that Dr. Franklin had a part of Mr. Chaumont's house at Passy, kept a chariot and pair and three or four servants, and gave a dinner occasionally "to the Americans and others." "His whole expense," Livingston added, "as far as I can learn, is very much within his income." Mr. Adams lived in lodgings, kept a chariot and pair and two men servants. He also had a private secretary who, it was presumed, would be paid by Congress. He had heard that Adams was about to rent a house. Mr. Dana's salary, even in Russia, where the relative value of money was so high that a house could not be hired for less than fifteen guineas a year, was ample. He was not informed of Mr. Jay's manner of living, but he concluded that if he maintained the same style as Dr. Franklin or Mr. Adams and followed the Spanish court which sat in different parts of the kingdom, his expenses must amount to double those of Franklin and Adams. The cost of living, taking Philadelphia as a standard, was twenty per cent cheaper in Paris, if wine, clothing, and the wages of servants were included; in Amsterdam, it was ten per cent cheaper

than in Philadelphia, and in Madrid, somewhat higher. In the last named place, the unsettled state of those who followed the court greatly enhanced their expenses. He recommended that Mr. Carmichael, then secretary to Jay at Madrid, be appointed "secretary to the embassy from the United States to the court of Versailles" at a salary of $4,000 a year, and that Jay be empowered to employ a private secretary at $1,000 a year, the same privilege being given to Mr. Laurens, "when he enters upon his mission to the United Provinces of the Low Countries." "The commissioners for negotiating a peace, in case Mr. Dana shall not return," he recommended should be authorized to appoint a secretary to the commission at $1,000 a year. The commission of minister plenipotentiary to Russia should be revoked and Francis Dana should be appointed resident at that court. When he should be received in that character, he might appoint a private secretary at $800 a year. No secretary to any of the missions to the "northern courts" should receive more than $1,000, and the salaries of the secretaries to France, Spain, and Holland should not exceed $2,000, except in the cases of those who had already been appointed. After January 1, the salary of a minister plenipotentiary from the United States should not exceed $5,000, and that of a resident $3,000, but an allowance for household expenses should be made. He gave the total annual expense of the Department of Foreign Affairs, "exclusive of contingencies," as follows:

Secretary of the United States for the department of foreign affairs,		$4000
1st under secretary, Lewis R. Morris,		800
2nd under secretary, Peter S. Du Ponceau,		700
Clerk, the Rev. Mr. Tetard,		500
		$6,000

Doctor Franklin	2500 at 4s. 6d.	11,111 1/9
Mr. Jay	2500 at 4s. 6d.	11,111 1/9
Mr. Adams	2500	11,111 1/9
Mr. Laurens	1500	6,666 6/9
Mr. Carmichael	1000	4,444 4/9
Mr. Dana	1000	4,444 4/9
Mr. Dumas	200 louis d'ors	920
Consul		1,500
		57,308 8/9
Private secretary to Dr. Franklin,		
Private secretary to Mr. Adams,[1]		

On June 17, James Madison, Ralph Izard, John Witherspoon, and George Clymer were appointed a committee to inquire into the proceedings of the Department. John Lowell of Massachusetts, also, was appointed, but left Congress before the report was completed. The committee reported, September 18, 1782, through Madison, that, from the time of the institution of the Department, in October, 1781, up to July 1, 1782, the Secretary for Foreign Affairs had sent fourteen letters to the minister plenipotentiary at Versailles, ten to the minister plenipotentiary at Madrid, eight to the minister plenipotentiary at The Hague, five to the minister plenipotentiary at St.

[1] *Secret Journals of Cong.*, III, 128, *et seq.*

Petersburg, two to the secretary of legation at Madrid, to our consul in France four letters, one to our agent at Habana, one to Mr. Dumas, one to Messrs. de Neuville & Son, fiscal agents of America in Paris, three to Mr. Harrison, consul at Cadiz, one to Samuel Parsons, who acted as consular agent at Martinique, and thirteen to the French minister. The Department had also corresponded with the governors and presidents of the States, requesting authentic statements of damages sustained from the enemy, sending circulars containing information touching the progress of our foreign intercourse and letters conveying foreign intelligence. Altogether there had been but eight of these communications. The report closed as follows:

> Upon the whole the committee report that the business of this Department appears to have been conducted with much industry, attention and utility; and without any errors or defects worthy of being taken notice of to Congress. Such improvements and alterations in the general plan of the business as were judged by the committee proper they have taken the liberty of suggesting to the Secretary in the course of their inquiry. As far as their suggestions can be of use, the committee have no doubt that they will be attended to.[1]

The committee gave a list of the books and papers in the Department. There were: books of foreign and American letters, of resolutions of Congress, of daily transactions, of reports to Congress, of letters of the late committee for foreign affairs, of commissions and instructions to American ministers, of secret instructions, of letters from the commissioners in France,

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 131.

of letters of Gérard, of Luzerne, of Adams, of Arthur Lee. There were nine boxes of papers, being letters from our agents abroad and other communications.[1]

On November 21, 1782, Madison made a motion to enlarge the Secretary's powers, and on November 25, Hugh Williamson of North Carolina reported it favorably and it was passed:

> That the Secretary for foreign affairs be, and he is hereby authorized to communicate to the Ministers of foreign powers, who may reside near Congress, all such acts and resolutions of Congress, and all such articles of intelligence received by Congress, as he may judge proper, those only excepted which Congress may specially require to be kept secret in which cases he shall make previous application to Congress.[2]

Nevertheless, Livingston had determined to resign. On November 28, he called on Madison, and told him he preferred the post of Chancellor of the State of New York, to which he had recently been appointed, and that he found he could not conduct both offices, because the business of the Department of Foreign Affairs had increased. He added that his expenses exceeded his salary as Secretary by $3,000 per annum. He asked if Jefferson would accept his office, or would take Jay's place in Spain and allow Jay to become Secretary. Madison replied that he doubted whether Jefferson would accept the Secretaryship and did not think Congress would be willing to dispense with

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 73.
[2] *Ibid.*, 36, I, folio 435.

Jay's services at Madrid, but he promised to sound Jefferson on the subject.[1]

On December 2, Livingston announced to Congress his resignation, giving the same reasons for his action that he had privately given to Madison. The letter was referred to a committee to confer with Livingston.[2] On December 3, Thomas McKean reported for the committee that Livingston was willing to remain in office till January 1, to give time for the selection of his successor. He offered a resolution, with a preamble which recited the reasons for the resignation as Livingston had given them, but Madison objected that a statement of preference for a state office over the Secretaryship of Foreign Affairs tended to degrade the Congressional office, so the preamble was changed and merely stated that Livingston had resigned. At the same time, it was proposed to increase the salary, but to this there was strenuous objection on the part of some members and it did not come to a vote.

On December 3, Congress assigned the 19th as a day for electing a Secretary, but on that day the election was again postponed. In the mean time a committee, composed of James Madison, John Rutledge of South Carolina, and John Taylor Gilman of New Hampshire, was appointed to confer with Livingston again, and reported, through Madison, December 21, 1782, that he was willing to remain at the head of the Department till the ensuing spring,

[1] *Writings of Madison* (Hunt), I, 273.
[2] *Ibid.*, I, 274.

and Congress requested him to remain till his successor should be chosen.[1] Efforts to elect a successor were still unavailing. General Philip Schuyler of New York, George Clymer of Pennsylvania, George Read of South Carolina, were successively put in nomination and objected to. Madison had also sounded James McClurg for the vacancy.[2] It became doubtful if the place would be continued.[3] An intimation was received that Livingston might be willing to serve for a few months longer, and another committee, composed of Arthur Lee of Virginia, Ralph Izard of South Carolina, and Stephen Higginson of Massachusetts, was appointed to ask him his wishes. To them he wrote the following letter:

Philadelphia 9th May 1783

Sir,

The enquiries that the Committee were pleased to do me the honor to make this morning relative to my continuing to exercise the office of Secretary for Foreign Affairs were extremely embarrassing to me—because on the one hand I find it impossible to continue in the office on the present establishment, without injuring my private affairs, and on the other, to propose the terms on which I should stay, would be to overrate my own importance, and to suppose that others would not be had upon such conditions, as Congress have been pleased to consider as sufficient. Having given my whole time, and a considerable part of my property to the public during the war, I see with pleasure that the affairs

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 167.
[2] *Writings of Madison* (Hunt), I, 274 *n.*
[3] *Ibid.*, I, 365 *n.*

of the United States are not now in such a situation as to render the contributions of an individual necessary. It is my wish to endeavour to repair the injuries my estate has sustained by the ravages of the enemy, my own neglect, and the offices I have held. By my former letter Congress will be able to judge how far my expences in the office exceed the salary; but as it by no means follows, that another with greater economy and humbler, but perhaps more just ideas of the importance of the office could live at less expence, I do not think that mine should be any reason to induce Congress to make other changes, than such as they shall themselves deem necessary, and in this view, I requested the committee that called upon me last winter to keep the matter of emolument entirely out of sight in their report, and then considered my stay only as a temporary inconvenience. At present, sir, I must choose between the office I have been honored with by Congress, and an important State office. If I continue in the first, I must suppose it the business of years, and lose sight of all objects in my own state, where I had something to hope from my connections and the favour of my countrymen, and where I possess an estate, the value of which depends in a great measure upon my attention to it. Under these circumstances I presume to flatter myself, that the committee will not think me blamable, when I assure them, that tho I am willing to give my time and services to the public if they should be deemed necessary, yet I cannot in justice to myself or my family add to the gift, that of such a portion of my property, as I find absolutely necessary to support the office I now hold. Permit me, gentlemen, to add, that having no wishes upon this subject, I am sincerely desirous that personal considerations may not enter into the arrangements that Congress make thereon.

I feel myself extremely honoured by the attention they have shown me in directing you to confer with me on this subject, and I reflect with great pleasure on the reasons I

have had to be satisfied with their conduct towards me since I have been honoured with the office

I am Gentlemen
with great Respect
Your most obdt. humble servant

ROBT. R. LIVINGSTON

Arthur Lee
Ralph Izard
& Higginson } Esqrs[1]

The whole Department at this time is disclosed in the following report. The Secretary had a salary of $4,000 per annum. Benjamin Franklin, "minister plenipotentiary of the United States at the court of Versailles, and minister plenipotentiary for negotiating a peace"; John Adams, "minister plenipotentiary at The Hague and for negotiating a peace"; John Jay, minister plenipotentiary at Madrid and for negotiating a peace; Henry Laurens, minister plenipotentiary for negotiating a peace; and Thomas Jefferson, with the same rank, each received a salary of $11,111 per annum. William Carmichael, "secretary to the embassy at the court of Madrid," and Francis Dana, minister of the United States at the court of St. Petersburg, each received $4,444.40 per annum. Charles W. F. Dumas, "agent of the United States at the Hague," received $920; William Temple Franklin, "secretary to the Honorable Benjamin Franklin," $1,300; Lewis R. Morris, "first under-secretary in the office for foreign affairs," $800;

[1] Cont. Cong. MSS., Lib. Cong., 25, I, folio 23.

Peter S. Du Ponceau, "second under-secretary in the office for foreign affairs," $700; John P. Tetard, "clerk and interpreter of the French language," $500; Walter Stone, "clerk," $500; making a total of $73,164.

How arduous had been the routine business of the Department of Foreign Affairs during the Revolution was set forth in Livingston's letter of January 25, 1782, where he stated that five copies of every document sent abroad had to be made. Sometimes as many as seven copies were sent, to lessen the chances of capture or loss, and upon each packet was written the warning, "to be sunk in case of danger from the enemy." As letters were opened upon reaching the post-offices in Europe, it was deemed necessary to send important instructions by special despatch agents. Ciphers were freely used and when Deane was agent he had sent many letters in an invisible ink which Jay, who was then on the secret committee, brought out by the aid of an acid. A large number of the letters from Congress were captured and went to the British foreign office, where the cipher was probably understood.

CHAPTER III

THE DEPARTMENT OF FOREIGN AFFAIRS

II

IT IS apparent from Livingston's letter that he would have remained as Secretary if the salary of the office had been augmented sufficiently to enable him to hold it without sacrifice of his personal estate, but he had yet another motive for not retiring. He wrote to Madison from Clermont, N. Y., July 19, 1783:

> I believe I mentioned to you before I left Philadelphia that if Congress should make no appointment of a secretary before the arrival of the treaty it would give me great pleasure to be permitted to sign it in that character. . . . . As the grand treaty which sets the seal to our independence should not want the usual forms, and as several little matters may be necessary in consequence thereof, perhaps they may be induced to recite that their removal and their want of full representation having prevented their supplying the place of the late Secretary for foreign Affairs that it would be agreeable to them that he resume the direction of the department *till the ratification of the definitive treaty.*[1]

This suggestion was not acted on.

Concerning the reasons which had caused him to resign, Madison wrote to Monroe, March 2, 1785:

> The practice of Congress towards his [Livingston's] department was never fixed and frequently improper, and

[1] *Writings of Madison* (Hunt), I, 274 *n.*

I always suspected that his indifference to the place resulted, in part at least, from the mortifications to which this unsteadiness subjected him.[1]

In spite of the obstacles in his way, Livingston's services had been of the highest order, and it is not going too far to say that no one man in the home government deserves equal credit with him for the successful diplomacy of the American Revolution.

Dr. Francis Wharton, in the *Diplomatic Correspondence of the American Revolution,* gives the following estimate of Livingston:

Livingston, though a much younger man than Franklin, possessed, in his dispassionateness and his many-sidedness, not a few of Franklin's characteristics. From his prior administrative experience as royalist recorder of New York he had at least some acquaintance with practical government in America; his thorough studies as scholar and jurist gave him a knowledge of administrative politics in other spheres. As secretary of foreign affairs in 1781-1783, he did more than any one in the home government in shaping its foreign policy. But the system he indicated was, as will be seen, not the 'militia' system of unsophisticated impulse, but that which the law of nations had at the time sanctioned as the best mode of conducting international affairs. His course as secretary was based on the law of nations as thus understood by him.[2]

On the day that he gave up his office, June 4, 1783, on motion of Alexander Hamilton it was

Resolved unanimously, That the thanks of Congress be presented to Mr. Livingston for his services during his

[1] *Writings of Madison* (Hunt), I, 141.
[2] *Dip. Cor. Amer. Rev.,* I, 594, *et seq.*

continuance in office, and that he be assured, Congress entertains a high sense of the ability, zeal and fidelity, with which he hath discharged the important trust reposed in him.[1]

It directed, also, that the papers of his office be turned over to the Secretary of Congress. Accordingly Livingston sealed them, and Thomson was without authority even to open them. Writing to a committee of Congress, August 17, 1783, he said:

You are sensible, Sir, that the correspondence between Congress and their deputies or ministers at Paris was carried on by the Secretary for foreign affairs, and that when Mr. Livingston resigned, the papers of his office, in which were deposited all the letters and communications from the Ministers of the United States at foreign courts, were sealed up. In that state I received them into my care until a successor to Mr. Livingston should be appointed.[2]

Lewis R. Morris, the first Under-Secretary of the Department, had been left by Livingston in charge of the Department's business, but Congress gave him no authority to act, so he soon left the office.

On August 26, a committee reported, through Stephen Higginson of Massachusetts, that they thought it "of the highest importance that a Secretary for that office should be elected, and that in the mean time the papers belonging thereto should be so disposed of as that Congress may have recourse to them when occasion shall require it."

It was proposed that a secretary be elected on Thursday next (the day being Tuesday), and that a

[1] Cont. Cong. MSS., Lib. Cong., II, folio 149.
[2] *Ibid.*, 20, I, folio 241.

committee be appointed to make a list of the papers and that then the secretary should arrange and care for them till a Secretary for foreign affairs should take over the office,[1] but on that day the subject was ignored.

As long as the papers were sealed in Thomson's office they were useless. On December 24, 1783, Elbridge Gerry moved that a committee be appointed to receive them from the Secretary of Congress and make a list of them, and that they then be permitted to remain in the Secretary's office and be accessible to members of Congress. This was referred to Thomas Jefferson, Samuel Osgood of Massachusetts, and Arthur Lee of Virginia; but Jefferson did not act on the committee,[2] and nothing was done. A few days later Gerry, seconded by Roger Sherman, moved the following:

Whereas on the 4 day of June last Congress resolved that the Secretary of Congress be directed to receive the papers of the office of foreign affairs into his care till a successor to Mr. Livingston be appointed and that the next Wednesday (which then ensued) be assigned for the election of a Secretary of the department of foreign affairs: and whereas the Secretary of Congress has in consequence of the said resolve received cases without examining their contents supposed to contain the said papers and also the books of the office of foreign affairs and informs Congress that he has kept the said cases locked and sealed to the present period. And whereas Congress have not hitherto been able to unite in the election of a principal or a deputy for the said depart-

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 247.
[2] *Ibid.*, 25, II, folio 333.

ment and it cannot be conceived neither does the resolution import that the members of this house who have a constitutional right to a free access to all the books and files of Congress should under such circumstances or under any pretence whatever be deprived of the perusal of those important documents, it is therefore resolved that the Secretary of Congress be directed forthwith to cause a list to be taken of the books and papers of the office of foreign affairs received by him persuant to a resolve of the 4 of June last and that any member of Congress shall have access to the same agreeable to the regulations prescribed for the department of foreign affairs.

Jefferson moved to strike out the part which said that the Secretary of Congress had received the cases without examining them and had kept them locked and sealed, and it was struck out. He then moved to strike out the words "neither does the resolution (of June 4) import," so that the sentence should read simply that it could not be conceived that the members of the house could not see the records, and this motion also was carried. It was then moved that the resolution be postponed till the following Tuesday (the day was Friday), but this was lost, and then the whole motion was lost.

Gerry then moved "That an under Secretary be appointed to take the charge of the papers belonging to the office of foreign affairs until the further order of Congress, that the said under Secretary be directed to make and lay before Congress a list of the said papers."

This was referred to a committee composed of Roger Sherman, Samuel Osgood, and Jacob Read of

South Carolina, who reported it favorably and it was passed February 3, 1784.[1] Following it on March 2, 1784, Henry Remsen, Jr., was elected Under-Secretary and put in charge of the papers.[2] As a matter of fact, however, the functions of the Department were suspended from the time Livingston left until his successor arrived, our foreign relations being managed wholly by Congress, upon reports of special committees. It had been the duty of the Secretary for Foreign Affairs to introduce a foreign minister upon his being admitted to his first audience with the Congress, but P. J. Van Berckel arriving during the interregnum as minister plenipotentiary from the United Netherlands, Congress ordered, October 25, 1783, that the Superintendent of Finance and Secretary of War, or either of them, perform the ceremonial duties usually assigned to the Secretary for Foreign Affairs.

Notice having been received from Franklin that Jay intended leaving France for America in April, 1784, Gerry nominated him in Congress May 7, 1784, for Secretary of Foreign Affairs, and he was elected. He took the oath of office and entered on his duties September 21, 1784. Remsen was continued as Under-Secretary; but Jay deemed the arrangement of one secretary and clerks advisable, and he was given authority to return to that plan.

A committee reported, December 14, 1784, that the Secretary ought to have $1,000 a year above his salary

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 329.
[2] *Ibid.*, 25, II, folio 247.

of $4,000, as necessary for his expenditure in maintaining his office, but this was not agreed to. On the same report it did agree December 15 to the following:

That the resolution of February 3, 1784, for the appointment of an under Secretary in the department of foreign affairs to take charge of the papers, and the appointment in consequence thereof continue in force no longer than until a Secretary to the United States for the department of foreign affairs take the oath and enter upon the execution of his office.[1]

Jay had hardly taken control before he wrote to the President of Congress (January 23, 1785):

I have some reason, Sir, to apprehend that I have come into the office of Secretary for foreign affairs with Ideas of its Duties & Rights somewhat different from those which seem to be entertained by Congress.[2]

He accordingly asked for instructions, and the duties of the Department were defined by Congress. It was resolved, February 11, 1785, that:

In pursuance of the resolutions of the 22d of February 1782, all communications to as well as from the United States in Congress assembled on the subject of foreign affairs, be made through the Secretary for the department of foreign affairs; and that all letters, memorials or other papers on the subject of foreign affairs, for the United States in Congress assembled, be addressed to him.

Resolved, That all papers written in a foreign language, which may in future be communicated to Congress from the

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 395.
[2] Dept. of State MSS., American Letters, Vol. I.

office of the department of foreign affairs, shall be accompanied with a translation into English.

Resolved, That the Secretary for the department of foreign affairs be and he is hereby authorized, to appoint an interpreter, whose duty it shall be to translate all such papers as may be referred to him, as well by the United States in Congress assembled as by Committees of Congress, the secretary for the department of foreign affairs, the secretary of Congress, the board of treasury, or the secretary for the department of war; and who shall be entitled to receive such allowance as the secretary for foreign affairs may think sufficient, not to exceed the annual pay of a clerk in the office; and who, previous to his entering on his duty as interpreter, shall take the oath of fidelity, and the oath of office, prescribed in an ordinance passed on the 27th day of January last, a registry of which oaths shall be kept in the office of the secretary of Congress.[1]

On this subject Madison wrote to Monroe, March 21, 1785:

If the office of foreign affairs be a proper one, and properly filled, a reference of all foreign despatches to it in the first instance is so obvious a course, that any other disposition of them by Congress seems to condemn their own establishment, to affront the minister in office, and to put on him a label of caution against that respect and confidence of the ministers of foreign powers which are essential to his usefulness. I have always conceived the several ministerial departments of Congress to be provisions for aiding their counsels as well as executing their resolutions, and that consequently whilst they retain the right of rejecting the advice which may come from either of them, they ought not to renounce the opportunity of making use of it. The foreign department is, I am sensible, in several respects the most difficult to be regulated,

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 413.

but I cannot think the question arising on Mr. Jay's letter is to be numbered among the difficulties.[1]

The Committee which submitted these resolutions was James Monroe of Virginia, Zephaniah Platt of New York, Jacob Read of South Carolina, Samuel Hardy of Virginia, and Richard Dobbs Spaight of North Carolina, and they were written by Read.

On the subject of the Under-Secretary, the following report by Read, Gerry, and Charles Pinckney of South Carolina was read March 14, 1785; and passed April 12:

That by the act of Congress of the 22d February 1782 the Secretary for the Department of Foreign Affairs is authorized to appoint a Secretary with a salary of one thousand dollars a year, and one or if necessary more clerks whose salaries should be five hundred dollars each per annum.

That by a subsequent act of Congress of the 1st of March 1782 the Secretary for foreign affairs is authorized to appoint two under Secretaries with a salary to the first of 800 dollars a year, and to the second of 700 dollars—and so much of the act of the 22d February 1782 is thereby repealed as annexes the salary of 1000 dollars to that appointment.

That the later arrangement appears to have taken place at the instance of the then Secretary for foreign affairs, in order to enable him to take a gentleman into the office whom he found very proper, and who declined serving in the capacity of a clerk.

That after a suspension of the Department for foreign affairs for nine months, Congress on the 1st March, 1784, appointed an under Secretary who in obedience to their orders took charge of the papers, and has acted in the office

[1] *Writings* (Hunt), I, 141.

continually since as Under Secretary and clerk without other aid till the appointment of the present Secretary for foreign affairs

Your Committee conceive that when Congress elected the under Secretary he ought to have been entitled to the salary annexed, at the first establishment of the Department to the office of under Secretary

Your committee therefore recommend that it be

Resolved

That the act of Congress of the 1st day of March 1782 authorizing the Secretary for foreign affairs to appoint two under Secretaries be repealed, and that so much of the Act of the 22d February, 1782, as was repealed by the said act of the 1st of March, 1782, be declared to be of full force and effect and so construed and taken from the 1st day of March 1784.[1]

The tendency was to increase the authority of the Department. September 7, 1785, on motion of Charles Pinckney, the Secretary was given authority to inspect any letters in the post-office for twelve months, except those to and from members of Congress, and on October 23, 1786, the privilege was renewed without limitation of time.[2] How he was called to appear before Congress is illustrated by the following:

Office of Secretary of Congress
Oct. 6, 1785

Sir,

I have it in charge to inform you that your attendance is required in Congress to-morrow at 12 o'clock, to which

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 423.
[2] *Ibid.*, 25, II, folios 445, 495.

time Congress have postponed the consideration of your report "respecting the number of consuls necessary to be appointed and for what foreign posts."

I have the honor to be
Sir
Your most obedt.
humble servt.

CHAS. THOMSON[1]

The negotiations of treaties with foreign powers had not thus far been carried on in the United States, but by our ministers abroad, under instructions from Congress. Their ratification by Congress was announced by proclamation, the approval of the representatives of at least nine states being necessary under the Confederation. But Jay was called upon to conduct negotiations with the Spanish minister looking to a treaty with that power, involving the vital question of the right to the navigation of the Mississippi. The insufficiency of his powers prompted him to address Congress, May 29, 1786, and ask whether it would not be advisable to appoint a committee with power to instruct him "on every point and subject relative to the proposed treaty." With this request Congress refused to comply. He was given, August 29, power "to treat, adjust, conclude and sign with Don Diego de Gardogui" a boundary treaty or convention, but was charged to inform Congress what propositions were made to him before he agreed to any of them. He was dependent upon Congress.

[1] Cont. Cong. MSS., Lib. Cong., 55, folio 283.

Office of Secretary of
Congress

June 7 1788

Sir,

Congress have considered your letter of the 4th wherein you inform them that "the city and county of New York have elected you one of their deputies to the state convention, which is to meet on the 17th instant at Poughkeepsie to consider and decide on the proposed federal constitution—that if it be agreeable to Congress you will attend, if not you will decline the appointment and request their directions on the subject.

In answer to your letter I have it in charge to inform you that if you incline to attend the convention, you have leave of absence for the purpose.

With great respect &c.

CHAS. THOMSON.

The Honorable
John Jay[1]

The Constitution of the United States had been adopted and elections under it were in progress for the new Congress, when the last Congress under the old Confederation appointed, August 14, 1788, a committee composed of Messrs. Samuel A. Otis of Massachusetts, Ezra L'Hommedieu of New York, James Randolph Reid of Pennsylvania, Thomas Tudor Tucker of South Carolina, and John Brown of Virginia to report on the condition in which the Department of Foreign Affairs then was. They found that it occupied two rooms, one being the Secretary's and the other that of his deputy and clerks. The daily transactions

[1] Cont. Cong. MSS., Lib. Cong., 55, folio 333.

were entered in a minute book as they occurred and from these copied into a journal, which contained all the transactions of the Department. At present the journal was in two folio volumes. The Secretary's letters to agents abroad were recorded in a book entitled Book of Foreign Letters, such parts as required secrecy being in cipher. The correspondence with foreign ministers and others in the United States was recorded in the American Letter Book, and comprised three folio volumes. Reports to Congress were recorded in a Book of Reports, the third volume of which was then in hand. The negotiations with Spain were recorded in a separate book. Passports for vessels issued under the Act of Congress of February 12, 1788, with evidence accompanying the applications, were recorded in a book kept for the purpose. Letters of credence and commissions of foreign ministers, *chargé d'affaires,* and consuls were recorded in the Book of Foreign Commissions. There was also a Book of Accounts, showing the expenses of the office, and one in which were entered all acts of Congress relating to the Department. The business of the office was conducted by the Secretary's deputy and two clerks, who gave such time as they could to recording previous correspondence. They had already recorded one volume of Dana's letters during his mission to Russia, beginning February 18, 1780, and ending December 17, 1783; of H. Lauren's, beginning January 24, 1780, and ending April 30, 1784; of J. Laurens's, during his special mission at Versailles from January 3, and ending September 6, 1781. There

were five volumes of Adams's letters from December 23, 1777, to April 10, 1787, and work was in progress on the sixth volume. Two volumes contained Jay's letters from December 20, 1779, to July 25, 1784. Deane's letters from September 17, 1776, to March 17, 1782, were recorded, and those from Arthur Lee from February 13, 1776, to February 13, 1778, were in hand. The letters from Franklin, Jefferson, the first joint commissioners and the joint commissioners for negotiating a treaty of peace, and those for negotiating treaties of commerce, William Lee, Dumas, and others, were numerous, and were not yet recorded. "The letter book of the late committee for foreign affairs composed of sheets stitched together and much worn" had been copied in a bound book and indexed. There was an index to the paper cases and to the boxes in each case, and to the papers in each box, the original letters and papers being in the cases and boxes. The office was constantly open from nine o'clock in the morning till six in the evening, and one clerk remained in the office while the others went to dinner. The report concluded: "And upon the whole they find neatness, method and perspicacity throughout the department."[1]

This was the last report made upon the condition of the Department of Foreign Affairs. The last act relative to foreign affairs was taken by the expiring Congress, September 16, 1788, when, on a report from a committee composed of Hamilton, Madison, Nathan Dane, and Tunis Edwards of Massachusetts, it was:

[1] Cont. Cong. MSS., Lib. Cong., 25, II, folio 495.

Resolved, That no further progress be made in the negotiations with Spain, by the secretary for foreign affairs, but that the subject to which they relate be referred to the federal government, which is to assemble in March next.[1]

One month later the Congress of the Confederation ceased to act, and never afterwards had a sufficient number of members attending to form a quorum.

The only two Secretaries of Foreign Affairs before the Constitution went into effect were Livingston and Jay. Both showed conspicuous ability, and it is doubtful if men better equipped for the office they held could have been found in America. The diplomacy of the Revolution was successful, but this was due chiefly to the American diplomatists, for the machinery which they were obliged to use was weak and inadequate for its purpose. In no branch of governmental affairs was the necessity for a stronger government and closer union of the states more crying than in our foreign relations, and this was more evident after the peace than it was while the states clung together in the common danger of war.

"When our ministers and agents in Europe," says John Fiske, "raised the question as to making commercial treaties, they were disdainfully asked whether European powers were expected to deal with thirteen governments or with one. If it was answered that the United States constituted a single government so far as their relations with foreign powers were concerned, then we were forthwith twitted with our failure to keep our engagements with England with regard to the loyalists and the collection of private debts. 'Yes, we see,' said the European diplomats; 'the United States

[1] *Secret Journals,* IV, 452.

are one nation to-day and thirteen to-morrow, according as may seem to subserve their selfish interests.' Jefferson, at Paris, was told again and again that it was useless for the French government to enter into any agreement with the United States, as there was no certainty that it would be fulfilled on our part, and the same things were said all over Europe.''[1]

The steps towards executive departments, and especially towards a Department for Foreign Affairs, had been regular and natural. First, there was the Committee of Secret Correspondence, to correspond with friends in Great Britain while the possibility of a reconciliation existed. Soon it had the functions of a Committee of Foreign Affairs and the title was conferred upon it. The contest in Congress over the establishment of departments was prolonged and stubborn. On the one side were members who were unwilling to delegate any power, on the other those who wanted to establish efficient government. When the Department of Foreign Affairs was created, real power was withheld from it, but the very necessities of government gave it more authority from time to time, until it came to have a fair resemblance to a real foreign office, and made the establishment of one under the Constitution a natural graduation.

[1] *The Critical Period of American History* (3d edition), p. 160.

CHAPTER IV

THE CREATION OF THE DEPARTMENT OF STATE

ALTHOUGH the Constitution did not provide in terms for the creation of Executive Departments of the government, it spoke of them as things which would be established as a matter of course. Article II, section 2, in treating of the powers of the President, said: "He may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the duties of their respective Offices"; and further in the same section: "but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, or in the courts of law, *or in the heads of Departments.*"

The government under the Confederation had Departments of Finance, of War, Marine, Post-Office, and Foreign Affairs, but it had no Department of State. The laws, ordinances, and proclamations were promulgated from the office of the Secretary of Congress, being signed by the President of Congress and countersigned by the Secretary, who also kept the great seal from 1782, when one was adopted. Commissions were made out in the Secretary's office

also. The ordinance of March 31, 1785, confirmed the existing practice, directing, among other things:

> He shall transmit to the several states, all acts, ordinances, resolutions and recommendations of Congress—correspond with the states, for the purpose of receiving communications from them, relative to the execution of the same, and make report thereof to Congress—keeping a book in which shall be entered copies of all such letters and communications. . . . .
>
> He shall authenticate all acts and proceedings of Congress not specially directed to be authenticated by their president—and keep a register of all treaties, conventions, ordinances and permanent acts of Congress. . . . .
>
> He shall keep the great seal of the federal union, and cause the same to be affixed to every act, ordinance, or paper Congress shall direct. He shall superintend the printing of the journals and other publications ordered by Congress.

In the Constitutional Convention it was shown that the framers had in mind the creation of effective Executive Departments. Alexander Hamilton's plan of government contemplated a supreme executive "to have the sole appointment of the heads or chief officers of the Departments of Finance, War, and Foreign Affairs."[1] Oliver Ellsworth proposed that there be an executive council to consist of the President of the Senate, the Chief Justice, "and the ministers as they might be established for the department of foreign and domestic affairs, war, finance and marine, who shall advise but not conclude the President."[2] Gouverneur Morris of Pennsylvania, seconded by

[1] *Writings of Madison* (Hunt), III, 195.
[2] *Ibid.*, IV, 234.

Charles Pinckney of South Carolina, submitted the following:

To assist the President in conducting the Public affairs there shall be a Council of State composed of the following officers—1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U. S. as may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union: He shall be President of the Council in the absence of the President.

2. The Secretary of Domestic Affairs who shall be appointed by the President and hold his office during pleasure. It shall be his duty to attend to matters of general police, the State of Agriculture and Manufactures, the opening of roads and navigations, and the facilitating communications thro' the States; and he shall from time to time recommend such measures and establishments as may tend to promote those objects.

3. The Secretary of Commerce and Finance who shall be appointed by the President during pleasure. It shall be his duty to superintend all matters relating to the public finances, to prepare & report plans of revenue and for the regulation of Expenditures, and also to recommend such things as may in his Judgment promote the commercial interests of the U. S.

4. The Secretary of foreign affairs who shall also be appointed by the President during pleasure. It shall be his duty to correspond with all foreign Ministers, prepare plans of Treaties, & consider such as may be transmitted from abroad, and generally to attend to the interests of the U. S. in their connections with foreign powers.

5. The Secretary of War who shall also be appointed by the President during pleasure. It shall be his duty to superintend everything relating to the war Department, such as the raising and equipping of troops, the care of military

stores, public fortifications, arsenals & the like—also in time of war to prepare and recommend plans of offence and Defence.

6. The Secretary of the Marine who shall also be appointed during pleasure—It shall be his duty to superintend everything relating to the Marine Department, the public ships, Dock Yards, naval Stores & Arsenals—also in the time of War to prepare and recommend plans of offence and defence.

The President shall also appoint a Secretary of State to hold office during pleasure; who shall be Secretary to the Council of State, and also public Secretary to the President. It shall be his duty to prepare all Public dispatches from the President which he shall countersign.

The President may from time to time submit any matter to the discussion of the Council of State, and he may require the written opinions of any one or more of the members: But he shall in all cases exercise his own judgment, and either Conform to such opinions or not as he may think proper; and every officer above mentioned shall be responsible for his opinion on the affairs relating to this particular Department.

Each of the officers above mentioned shall be liable to impeachment & removal from office for neglect of duty malversation or corruption.[1]

The proposition for a council of state was rejected, but a part of the purpose which it was intended to serve was recognized in section 2 of Article II of the Constitution, which provides that the President "may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective

1 *Writings of Madison* (Hunt), IV, 242.

Offices.'' Morris's motion and others looking to the same end show that the members of the Convention entertained well-defined ideas of the division of the duties of executive government.

The first Congress under the Constitution obtained a quorum in both branches on April 6, 1789, when the electoral votes for President and Vice-President were counted. On April 30, George Washington was inaugurated and entered upon the duties of the Presidency, but as yet no executive machinery had been arranged. The attention of Congress had been engrossed by the question of providing revenue with which to run the new government, and it was not until May 19 that the matter of creating Executive Departments was taken up.[1]

On that day Elias Boudinot of New Jersey formally brought it before the Committee of the Whole of the House of Representatives.

''The great Executive Departments,'' he said, ''which were in existence under the late Confederation, are now at an end, at least so far as not to be able to conduct the business of the United States.'' The Constitution, he continued, contemplated Executive Departments to aid the President. The finances of the government required immediate attention. The old Departments could not be models for the new, because of the essential change which had taken place in the government. He preferred that provision be made first for a Department of Finance, the head of which should be termed ''the Secretary of Finance,''

[1] *Annals of Cong.*, 1st Cong., I, 368, *et seq.*

and after that to proceed to the consideration of the War Department and Department of Foreign Affairs.

Egbert Benson of New York moved that three Departments be established "in aid of the Chief Magistrate," to be "severally denominated the Department of Foreign Affairs, Treasury, and War." John Vining of Delaware thought there should be added a Home Department to deal with the territorial possessions and domestic affairs of the country. After further debate, James Madison offered as a substitute for the several motions before the committee the following:

> That there shall be established an Executive Department, to be denominated the Department of Foreign Affairs, at the head of which there shall be an officer, to be called the Secretary to the Department of Foreign Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate; and to be removable by the President.
>
> That there shall be a Treasury Department, &c.
>
> That there shall be a War Department, &c.

Vining at once proposed to add a "Domestic Department," but presently withdrew the motion for the time being. Samuel Livermore of Massachusetts objected to the Department of Foreign Affairs being placed at the head of the list. He thought the Treasury Department was the most important and should go first. The committee, however, accepted Madison's motion; but when it took up the matter of the appointment and removal of the Secretary an interesting debate arose.

William Smith of South Carolina thought it un-

necessary to prescribe that the Secretary of Foreign Affairs should be appointed "by the President, by and with the advice and consent of the Senate," as the Constitution already prescribed this mode, and the clause concerning removability was objectionable because it conferred the power of removal upon the President alone. On his motion the clause relative to the mode of appointment was struck out. Smith then said he doubted if the Secretary could be removed by the President. Being once in office he must remain until death or conviction upon impeachment. James Jackson of Georgia proposed that the President be given power to suspend the Secretary after his impeachment by the Senate, but thought his removal required his conviction upon impeachment by the Senate. Boudinot replied:

> The gentlemen who denied the power of the President to remove from office founded their opinion upon the fourth section of the second article of the Constitution, where it declared that all officers shall be removed from office on impeachment for, and on conviction of, treason or bribery. If their construction is admissible, and no officer whatever is to be removed in any other way than by impeachment, we shall be in a deplorable situation indeed. Consider the extent of the United States, and the difficulty of conducting a prosecution against an officer, who, with the witnesses, resides a thousand miles from the seat of government. But suppose the officer should, by sickness, or some other accident, be rendered incapable of performing the functions of the office, must he be continued? And yet it is to be apprehended that such a disability would not furnish any good ground for impeachment; it could not be laid as treason or bribery, nor perhaps as a high crime or misdemeanor. Would gentlemen

narrow the operation of the Constitution in this manner, and render it impossible to be executed?

Impeachment, he contended, was provided for in the Constitution as a means of removal for crimes and not as the ordinary means.

Alexander White of Virginia argued that in all cases the party who appointed ought to judge of the removal, and the Senate must participate in the one as it did in the other.

Madison argued on the other side. To deny the President's power of removal would, he said, establish every officer of the government in place during good behavior, which would be fatal to the government. The President must have the power of removal from office, so that he might be held responsible for his subordinate's conduct, and the head of an Executive Department should be responsible to the President alone. To say that he must not be removed without the advice and consent of the Senate was to relieve the President of responsibility and make the Senate share it, and the Senate could not be held to accountability. "But why," he said, "it may be asked, was the Senate joined with the President in appointing to office, if they have no responsibility? I answer, merely for the sake of advising, being supposed, from their nature, better acquainted with the character of the candidates than an individual; yet even here the President is held to the responsibility—he nominates, and, with their consent, appoints. No person can be forced upon him as an assistant by any other branch of the Government." There was another objection to

the Senate sharing in the dismissal. It would tend to mingle the executive and legislative branches. It had been objected by those who were reluctant to accept the Constitution that the Senate shared too much of the executive power. It would be impolitic and unwise, therefore, to extend their power in this direction.

At the close of the debate the question was taken and by a considerable majority decided in favor of the right of removal.

The next day the House, still in Committee of the Whole, proceeded to the consideration of the bill to create a Treasury Department, and on May 21 agreed to the following:

Resolved, That it is the opinion of this committee that there ought to be established the following Executive departments, viz: A Department of Foreign Affairs, at the head of which shall be an officer to be called Secretary to the United States for the Department of Foreign Affairs, removable by the President. A Treasury Department, at the head of which shall be an officer to be called Secretary to the United States for the Treasury Department, removable by the President. A Department of War, at the head of which shall be an officer to be called Secretary to the United States for the Department of War, removable by the President.

Resolved, That this House doth concur with the committee in the said resolution; and that a committee, to consist of eleven members, be appointed to prepare and bring in a bill or bills pursuant thereto.

The committee was elected, to consist of Abraham Baldwin of Georgia, Vining of Delaware, Livermore

of Massachusetts, Madison of Virginia, Benson of New York, Ædanus Burke of South Carolina, Thomas Fitzsimons of Pennsylvania, Elias Boudinot of New Jersey, Elbridge Gerry of Massachusetts, and Lambert Cadwalader of New Jersey.

Baldwin, the chairman of the committee, while he represented Georgia, had resided in his native state of Connecticut until the close of the Revolutionary War. He graduated at Yale in 1772, taught mathematics in that college until 1777, when he entered the army as a chaplain and served in that capacity till 1783. He then settled in Georgia, where he became a lawyer and was sent as a delegate to the Constitutional Convention. He was described by his contemporary, William Pierce, as "a gentleman of superior abilities, and joins in public debate with great art and eloquence."[1] He was a Republican and generally opposed to conferring extensive executive power. Of the other members of the committee the most notable characters were Madison, Ædanus Burke, and Elias Boudinot. Madison and Boudinot favored effective government and were not afraid of the power of the executive; but Burke was a radical of violent type, jealous of all government, and opposed to all grants of power.[2]

The results of the deliberations of the committee were two bills presented to the House by Baldwin June 2, the first "to establish an Executive depart-

[1] Pierce's notes. *Am. Hist. Rev.*, III, 333.

[2] His essay against the Society of the Cincinnati was translated into French by Mirabeau, and quoted in the French Assembly.

ment, to be denominated the Department of War," the second "to establish an Executive department, to be denominated the Department of Foreign Affairs."

Although the bill to create the War Department was actually presented to Congress before the bill to create a Department of Foreign Affairs, the committee did not intend to accord precedence to the War Department, and the bill for the Department of Foreign Affairs was considered first. It came before the Committee of the Whole on June 16, and at once the debate concerning the removability of the Secretary was renewed, the arguments on both sides which had been made a month before being repeated and amplified, and continued for four days. The question was considered to be of vital importance and all the principal members spoke. There was felt to be force in William Smith's argument that if the President already had the power of removal by the Constitution, it ought not to be expressly given him by the law, and on the fifth day, June 22, Benson moved to amend the bill so as simply to imply the power of removal in the President by altering the second clause, which provided for a Chief Clerk to be appointed by the Secretary and employed as he thought proper, and in case of vacancy in the office of Secretary to have charge of the records and papers. He proposed to strike out the words "to be removable by the President" in the first clause of the bill and insert in the second clause, with reference to custody of the records by the Chief Clerk, the words, "whenever the said principal officer shall be removed from office by the President of the

United States, or in any other case of vacancy." This was carried by a vote of thirty ayes to eighteen noes, the words "to be removable by the President" being struck out by a vote of thirty-one ayes to nineteen noes.[1] The bill was then ordered to be engrossed and on June 24 passed by the House by a vote of twenty-nine to twenty-two.

As it went to the Senate it read as follows:

Be it enacted by the Congress of the United States that there shall be an executive department to be denominated the department of Foreign affairs: and that there shall be a principal officer therein, to be called the Secretary for the department of foreign affairs, who shall perform and execute such duties, as shall from time to time be enjoined on, or be entrusted to, him by the President of the United States agreeable to the Constitution, relative to correspondences Commissions, or instructions, to or with public Ministers or Consuls, from the United States, or to negotiations from foreign States or Princes, or to memorials or other applications, from foreign public ministers, or other foreigners, or to such other matters respecting foreign affairs, as the President of the United States may assign to the said department: and furthermore that the said principal officer, shall conduct the business of the said department in such a manner as the President of the United States shall from time to time, order or instruct.

And be it further enacted That there shall be in the said department, an inferior officer, to be appointed by the said principal officer, and to be employed therein as he shall deem proper, and to be called the Chief Clerk in the department of foreign affairs, and who whenever, the said principal officer

[1] On three subsequent occasions the question of removability became acute in Congress—during Jackson's administration in 1836, again when Andrew Johnson was President, and again under Cleveland.

shall be removed from office by the President of the United States, or in any other case of Vacancy shall during such vacancy have the charge and custody of all records, books and papers appertaining to the said department—Provided, nevertheless that no appointment of such chief Clerk shall be valid until the same shall have been approved by the President of the United States.

And be it further enacted, That the said principal officer, and every other person to be appointed or employed in the said department, shall before he enters on the exercise of his office or employment take an oath or affirmation, well and faithfully to execute the trust committed to him.

And be it further enacted that the Secretary for the department of foreign affairs, to be appointed in consequence of this act shall forthwith after his appointment be entitled to have the Custody and charge of all records, books, and papers in the office of Secretary for the department of foreign affairs heretofore established by the United States in Congress assembled.

Passed the House June 24, 1789.

This is endorsed "Copy as it came from House."[1]

In the Senate the bill was again debated; but the sessions were held behind closed doors, and there is no record of what was said. It was passed July 18, with slight amendment, the proviso requiring the President's approval of the Chief Clerk being struck out, and the phrase "Congress of the United States" being altered to "Senate and House of Representatives of the United States of America in Congress assembled."[2] On the 20th the House agreed to the

[1] U. S. Senate MS. archives.

[2] *Ibid.*

Senate amendments, without debate,[1] and the President signed the bill the 27th. The final act read:

An act for establishing an Executive Department, to be denominated the Department of Foreign Affairs.

(Sect. 1.) *Be it enacted by the senate and house of representatives of the United States of America in congress assembled,* That there shall be an executive department, to be denominated the department of foreign affairs, and that there shall be a principal officer therein, to be called the secretary for the department of foreign affairs, who shall perform and execute such duties as shall, from time to time, be enjoined on or intrusted to him by the president of the United States, agreeable to the constitution, relative to correspondence, commissions, or instructions, to or with public ministers or consuls, from the United States, or to negociations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers, or other foreigners, or to such other matters respecting foreign affairs as the president of the United States shall assign to the said department; And furthermore, that the said principal officer shall conduct the business of the said department in such manner as the president of the United States shall, from time to time, order or instruct.

(Sect. 2.) *And be it further enacted,* That there shall be in the said department an inferior officer, to be appointed by the said principal officer, and to be employed therein as he shall deem proper, and to be called the chief clerk in the department of foreign affairs; and who, whenever the said principal officer shall be removed from office by the president of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers, appertaining to the said department.

[1] *Annals of Cong.*, I, 659.

(Sect. 3.) *And be it further enacted,* That the said principal officer, and every other person to be appointed or employed, in the said department, shall, before he enters on the execution of his office or employment, take an oath or affirmation, *well and faithfully to execute the trust committed to him.*

(Sect. 4.) *And be it further enacted,* That the secretary for the department of foreign affairs, to be appointed in consequence of this act, shall, forthwith after his appointment, be entitled to have the custody and charge of all records, books, and papers, in the office of secretary for the department of foreign affairs, heretofore established by the United States in congress assembled.[1]

(Approved, July 27, 1789.)

On July 23, before the final passage of this act, but after it had passed the House, Vining elaborated his plan for a Home Department and offered the following:

That an Executive department ought to be established, and to be denominated the Home department; the head of which to be called the Secretary of the United States for the Home Department; whose duty it shall be to correspond with the several States, and to see to the execution of the laws of the Union; to keep the great seal, and affix the same to all public papers, when it is necessary; to keep the lesser seal, and to affix it to commissions, &c.; to make out commissions, and enregister the same; to keep authentic copies of all public acts, &c.; and transmit the same to the several States; to procure the acts of the several States, and report on the same when contrary to the laws of the United States; to take into his custody the archives of the late Congress; to report to the President plans for the protection and improve-

[1] *Stats. at Large,* 28.

ment of manufactures, agriculture, and commerce; to obtain a geographical account of the several States, their rivers, towns, roads, &c.; to report what post roads shall be established; to receive and record the census; to receive reports respecting the Western territory; to receive the models and specimens presented by inventors and authors; to enter all books for which patents are granted; to issue patents, &c.; and, in general, to do and attend to all such matters and things as he may be directed to do by the President.[1]

His proposition met with little favor. Benson thought "the less the government corresponded with particular States the better"; and White gave it as his opinion that correspondence with states was the business of the Chief Executive, and it belonged to the judiciary to see that the laws were executed. The great seal might be kept by the Secretary of Foreign Affairs, and the lesser seal also.[2] Commissions should be made out by the Departments under which the appointees were to serve. The public acts could be sent to the executives of the states by the officers of Congress. Post roads properly belonged under the supervision of the Postmaster-General, and it was hardly necessary to establish a great department for the purpose of receiving the models, specimens, and books presented by inventors and authors.

Benjamin Huntington of Connecticut thought the Secretary of Foreign Affairs was not so overcharged with business that he would be unable to attend to most of the duties mentioned by Vining.

To this Vining said that the duties mentioned in his

1 *Annals of Cong.*, I, 666.

2 There was no lesser seal then, nor was one ever authorized.

resolutions were necessary, but that they were foreign to each of the Departments projected. He thought they could best be performed by a confidential officer under the President.

Sedgwick of Massachusetts replied that he believed the office unnecessary, and that if the motion was negatived he would bring in one to assign the principal part of the duties designed for the Home Department to the Secretary of Foreign Affairs.

Vining's motion having been defeated by a large majority, Sedgwick moved "that a committee be appointed to bring in a bill supplementary to the act establishing the Department of Foreign Affairs, declaring that Department to be hereafter denominated ——, and that the principal officer in that Department shall have the custody of the records and seal of the United States, and that such bill do contain a provision for the fees of office to be taken for copies of records, and further provision for the due publication of the acts of Congress, and such other matters relating to the premises, as the committee shall deem necessary to be reported to this House."

This motion was also defeated. It gave, however, form to the idea, which had been developed in debate, that the Department of Foreign Affairs would be the most convenient place for performing those functions which did not naturally fall to the Departments of Finance and War.

On July 27 the House, in Committee of the Whole, took into consideration the report on the joint rules to be established with the Senate "for the enrollment,

attestation, publication, and preservation of the acts of Congress, and to regulate the mode of presenting addresses and other acts to the President of the United States," and agreed upon rules which prescribed how bills should be enrolled, compared, and presented to the President. This left the final disposition and promulgation of laws unprovided for, and the following was adopted:

Resolved, That it is the opinion of this committee, that a committee ought to be appointed to prepare and bring in a bill or bills, to provide, without the establishment of a new department, for the safe keeping of the accounts, records, and seal of the United States; for the authentication of records and papers; for establishing the fees of office to be taken for commissions, and for copies of records and papers; for making out and recording commissions, and prescribing their form; and to provide for the due publication of the acts of Congress.

To carry out the resolution, Theodore Sedgwick, George Matthews of Georgia, and Henry Wyncoop of Pennsylvania were appointed a committee.

Like Baldwin, who presented the bill to establish the Department of Foreign Affairs, Theodore Sedgwick was born in Connecticut and educated at Yale. He went to Massachusetts at an early age, served through the Revolution, was a member of the Massachusetts legislature on several occasions, and was an active member of the Massachusetts convention which ratified the Constitution of the United States. Unlike Baldwin, he was a strong Federalist, but no party lines were applied in considering the creation of the Departments. Sedgwick served in the House until

1796, when he was elected a Senator. He was again in the House in 1799, when he was chosen Speaker. In 1802 he went on the Supreme Bench of Massachusetts, where he remained until his death in 1813.

Four days after his committee was appointed (on July 31) he offered the House "a bill to provide for the safe keeping of the acts, records, and great seal of the United States, for the publication, preservation, and authentication of the acts of Congress, &c," which was read and laid upon the table. On Monday, August 3, it was taken up and made a special order for Friday the 7th, but was not considered till August 27, when it was passed without recorded debate and sent to the Senate, being received by that body August 28 and committed on September 2 to a committee composed of Rufus King of New York, William Paterson of New Jersey, and George Read of Delaware. On September 7 it was agreed to with unimportant amendments and received back by the House. The next day the amendments were agreed to and it was approved by the President September 15.

It read as follows:

An act to provide for the safe keeping of the Acts, Records and Seal, of the United States, and for other purposes.

(Sect. 1.) *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Executive department, denominated the Department of Foreign affairs, shall hereafter be denominated the Department of State, and the principal officer shall hereafter be called the Secretary of State.

(Sect. 2.) *And be it further enacted,* That whenever a

bill, order, resolution, or vote of the Senate and House of Representatives, having been approved and signed by the President of the United States, or not having been returned by him with his objections, shall become a law, or take effect, it shall forthwith thereafter be received by the said Secretary from the President: and whenever a bill, order, resolution, or vote, shall be returned by the President with his objections, and shall, on being reconsidered, be agreed to be passed, and be approved by two thirds of both Houses of Congress, and thereby become a law or take effect, it shall, in such case, be received by the said Secretary from the President of the Senate, or the Speaker of the House of Representatives, in whichsoever House it shall last have been so approved; and the said Secretary shall, as soon as conveniently may be, after he shall receive the same, cause every such law, order, resolution, and vote, to be published in at least three of the public newspapers printed within the United States, and shall also cause one printed copy to be delivered to each Senator and Representative of the United States, and two printed copies duly authenticated, to be sent to the Executive authority of each State; and he shall carefully preserve the originals, and shall cause the same to be recorded in books to be provided for the purpose.

(Sect. 3.) *And be it further enacted,* That the seal heretofore used by the United States in Congress assembled, shall be, and hereby is declared to be, the seal of the United States.

(Sect. 4.) *And be it further enacted,* That the said Secretary shall keep the said seal, and shall make out and record, and shall affix the said seal to all civil commissions to officers of the United States to be appointed by the President, by and with the advice and consent of the Senate, or by the President alone. *Provided,* That the said seal shall not be affixed to any commission, before the same shall have been signed by the President of the United States, nor to any other instrument or act, without the special warrant of the President therefor.

(Sect. 5.) *And be it further enacted,* That, the said Secretary shall cause a seal of office to be made for the said department, of such device as the President of the United States shall approve, and all copies of records, and papers, in the said office, authenticated under the said seal, shall be evidence equally as the original record, or paper.

(Sect. 6.) *And be it further enacted,* That there shall be paid to the Secretary, for the use of the United States, the following fees of office, by the persons requiring the services to be performed, except when they are performed for any officer of the United States, in a matter relating to the duties of his office, to wit; For making out and authenticating copies of records, ten cents for each sheet containing one hundred words; for authenticating a copy of a record, or paper, under seal of office, twenty five cents.

(Sect. 7.) *And be it further enacted,* That the said Secretary shall, forthwith after his appointment, be entitled to have the custody and charge of the said seal of the United States, and also of all books, records, and papers, remaining in the office of the late Secretary of the United States in Congress assembled; and such of the said books, records, and papers, as may appertain to the Treasury department, or War department, shall be delivered over to the principal officers in the said departments, respectively, as the President of the United States shall direct.

(Approved September 15, 1789.)[1]

This act was supplemented by the following, which was presented in the House September 18 and concurred in by the Senate on the same day:

Resolved, That it shall be the duty of the Secretary of State to procure, from time to time, such of the statutes of the several states as may not be in his office.

(Approved, September 23, 1789.)[2]

[1] 1 *Stats. at Large,* 68.

[2] *Ibid.,* 97.

In the mean time, the question of the compensation of the heads of Departments had been fixed by the act approved September 11, 1789, at $3,500 per annum for the Secretary and $800 for the Chief Clerk, and such clerks as might be necessary at not more than $500 each.[1]

Early in June, 1789, while the old Department of Foreign Affairs still existed, Washington wrote to John Jay, asking for "some informal communication from the office of Secretary for Foreign Affairs"; and during the fifty days of existence of the new Department of Foreign Affairs he continued to act as Secretary. He acted as Secretary of State, also, until Thomas Jefferson took control in February of the ensuing year.

The records intended for the Department, Charles Thomson had in his keeping. He wrote to the President:

To the President of the United States of America

Sir,

Having had the honor of serving in quality of Secretary of Congress from the first meeting of Congress in 1774 to the present time, a period of almost fifteen years, and having seen in that eventful period, by the interposition of divine Providence the rights of our country asserted and vindicated, its independence declared acknowledged and fixed, peace and tranquillity restored and in consequence thereof a rapid advance in arts, manufactures and population, and lastly a government established which gives well grounded hopes of promoting its lasting welfare and securing its freedom and happiness, I now wish to return to private life.

[1] 1 *Stats. at Large*, 67.

With this intent I present myself before you to surrender up the charge of the books, records and papers of the late Congress which are in my custody and deposited in rooms of the house where the legislature assemble, and to deliver into your hands the Great Seal of the federal union, the keeping of which was one of the duties of my office, and the seal of the admiralty which was committed to my care when that board was dissolved.

Before I retire I beg leave to recommend to your favour Mr. Roger Alden who was appointed by the late Congress, deputy secretary and whom I have found an able and faithful assistant, and Mr. John Fisher who has served as a clerk in the office for several years with diligence and fidelity and who alone remains unemployed.

And with most sincere and ardent wishes for the prosperity of our country and a fervent prayer for your health and happiness I bid you an affectionate Farewell

CHAS. THOMSON[1]

July 23, 1789.

To this the President replied July 24:

You will be pleased, Sir, to deliver the Books, Records and Papers of the late Congress—the Great Seal of the federal Union—and the Seal of the Admirality, to Mr. Roger Alden, the late Deputy Secretary of Congress, who is requested to take charge of them until further directions shall be given.[2]

Information of the law authorizing the new Executive Department of Foreign Affairs was conveyed by the President to the Governors of the several states July 5, and September 21 they were informed of the passage of the act making it the Department of State.

[1] Cont. Cong. MSS., Lib. Cong., 49, folio 215. The record shows that Fisher was soon afterwards dismissed for misconduct and Thomson wrote withdrawing his commendation.

[2] Dept. of State MSS., Miscl. Letters.

A few days later Jay was nominated to be Chief Justice and Thomas Jefferson to be Secretary of State, and both were commissioned September 26.

Jay accepted at once, but continued to discharge the duties of Secretary of State for some months. Under date of October 13, Washington informed Jefferson of his appointment, and added that "Mr. Jay had been so obliging as to continue his good offices." Mr. Alden, he said, had the state papers and Mr. Remsen those relating immediately to foreign affairs.[1]

When this letter was written, Jefferson had not yet returned to America from his mission to France. Upon his arrival Jay wrote to him, December 12, congratulating him upon his appointment and recommending to him favorably "the Young gentlemen in the office."[2] Jefferson accepted the office in the following letter to the President:

Monticello Feb. 14, 1790

Sir

I have duly received the letter of the 21st of January with which you have honored me, and no longer hesitate to undertake the office to which you are pleased to call me. Your desire that I should come on as quickly as possible is a sufficient reason for me to postpone every matter of business, however pressing, which admits postponement. Still it will be the close of the ensuing week before I can get away, & then I shall have to go by the way of Richmond, which will lengthen my road. I shall not fail however to go on with all the dispatch possible nor to satisfy you, I hope, when I

[1] Dept. of State MSS., Miscl. Letters.

[2] *Correspondence and Public Papers of John Jay,* III, 381.

shall have the honor of seeing you at New York, that the circumstances which prevent my immediate departure, are not under my controul. I have now that of being with sentiments of the most perfect respect & attachment, Sir

Your most obedient & most humble servant

TH. JEFFERSON.

The President of the U. S.[1]

Shortly afterwards he assumed office, the records were turned over to him, and the Department of State was fairly started in its career.

[1] Dept. of State MSS., Miscl. Letters.

CHAPTER V

THE NEW DEPARTMENT

DURING the interval between the inauguration of the President and the formation of the executive departments, the old departments performed such executive duties as were indispensable. On July 11, 1789, for example, "by the hands of Mr. Jay," Washington sent to the Senate for ratification a consular convention with France. On July 22, the Senate

> *Resolved,* that the Secretary of Foreign Affairs under the former Congress be requested to peruse the said convention and to give his opinion how far he conceives the faith of the United States to be engaged, either by former agreed stipulations or negotiations entered into by our minister at the court of Versailles, to ratify in its present sense or form the convention now referred to the Senate.

Jay reported July 25, as "The Secretary of the United States for the Department of Foreign Affairs, under the former Congress."[1]

Even as late as October 3, 1789, Diego de Gardoqui, charged with negotiations for Spain, wrote to Jay: "Observing that you continue to exercise occasionally the office of Secretary of State," he announced that

[1] American State Papers, Foreign Affairs, I, 89.

he would leave Don Joseph de Viar in charge of negotiations while he should be absent.

Jay replied October 7, 1789, that he would receive Mr. de Viar—

> Circumstances having rendered it necessary that I should continue, though not officially, to superintend the Department of Foreign Affairs until relieved by a successor.[1]

On May 7, 1789, Jay submitted the estimates for the "Office of Foreign Affairs" to the "Commissioners of the Treasury." The "establishment of the office" was as follows:

John Jay, Secretary of the United States for the Department of foreign Affairs	3500
Henry Remsen Junr Under Secretary in the office for foreign affairs	800
George Taylor Junr, Jacob Blackwell } Clerks at 450 dolrs each .	900
John Pintard, Interpreter of the french language .	250
Abraham Okie, Doorkeeper and Messenger . .	150

Contingent Expences of the Office.

These expences are somewhat uncertain. The amount of them from 24th May 1788 to 7th May 1789, including the allowance to the Interpreters of the Spanish, German and Dutch languages who receive at the rate of 2s per hundred words for translating is about	150
Office rent	200
Dollars	5950

[1] Dept. of State MSS., American Letters, IV.

Foreign Ministers, &c, &c.

The Hon^{bl} Thomas Jefferson, Esqr Minister Plenipotentiary at the Court of France 9000
William Short Esqr private Secretary to Mr. Jefferson 300 Louis d'ors a year
The Honble William Carmichael Esqr Chargé des Affaires at the Court of Madrid . . .
Qu. is Mr Carmichael's salary to be regulated by the Act of Congress of 4th October 1779, or by that of 11th May 1784?
Thomas Barclay Esqr Consul General for France now in America 1000
Charles W. F. Dumas at the Hague 1300

Contingent Expences.

Postage and Couriers have been uniformly charged and some other articles, and in a certain instance House Rent has also been charged, but not yet decided upon. The accounts are at the Treasury, and their amount in ordinary will furnish a Rule for estimating these contingent expences.[1]

Until there was a Secretary of State, letters to the President on such subjects as belonged to the State Department were sent by the President's secretary to Roger Alden:

UNITED STATES *January 12, 1790.*

SIR,

I am directed by the President of the United States to transmit herewith to you, to be lodged in the office of State with other public papers under your care, and to be delivered to the Secretary of State whenever he may enter upon the duties of his office, the Form of the adoption and ratification of the constitution of the United States by the State of North

[1] Dept. of State MSS., American Letters, IV.

Carolina, which has been officially communicated to him by the President of the Convention of said State; and likewise a letter which accompanied the above form of Ratification from Samuel Johnston President of the Convention of the State of North Carolina to the President of the United States.

TOBIAS LEAR,
S. P. U. S.

ROGER ALDEN, Esquire.[1]

When the Senate called on Jay for an opinion with reference to the consular conventions with France, it was merely following the habit of the old Congress, which, on such an occasion, would have called upon the Secretary of Foreign Affairs. It should, properly, have addressed the President, who, in accordance with the new order of things, was completely responsible for the conduct of the foreign relations of the United States. The Senate itself recognized early that it had no direct participation in these affairs, as the following letters show:

UNITED STATES *December 8, 1790.*

The SECRETARY OF STATE.

SIR,

In obedience to the command of the President of the United States, I have the honor to transmit herewith sundry communications of the proceedings of Government in the Western Territory from January to July 1790, made by the Secretary of the said territory to the President of the United States, upon which the President requests your opinion as to what should be done respecting them.

I have likewise the honor to transmit, by the President's order, a letter and packet from the President of the national

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20.

Assembly of France directed to the President and members of the American Congress; this direction prevented the President from opening them when they came to his hands—and he yesterday caused them to be delivered to the Vice-President that they might be opened by the Senate—The Vice-President returned them unopened with an opinion of the Senate that they might be opened with more propriety by the President of the United States, and a request that he would do it, and communicate to Congress such parts of them as in his opinion might be proper to be laid before the Legislature.

The President therefore requests that you would become acquainted with their contents and inform what (if any) should be laid before Congress. Another letter from the National Assembly addressed particularly to the President is inclosed herewith for your perusal. The President has the translation of this letter.

TOBIAS LEAR,
S. P. U. S.

Jefferson replied:

DEPARTMENT OF STATE,
December 9, 1790.

The PRESIDENT OF THE UNITED STATES,

SIR,

I have now the honor to return you the letter from the President of the Assembly of Representatives of the Community of Paris to the President and Members of Congress, which you had received from the President of the Senate with the opinion of that house, that it should be opened by you, and their request that you would communicate to Congress such parts of it as in your opinion might be proper to be laid before the legislature.

The subject of it is the death of the late Dr. Franklin—it conveys expressions from that respectable city to the Legis-

lature of the United States of the part they take in that loss, and information that they had ordered a solemn and public oration for the transmission of his virtues and talents to posterity, copies of which, for the members of Congress, accompany this letter: and it is on the whole an evidence of their marked respect and friendship towards these United States.

I am of opinion their letter should be communicated to Congress, who will take such notice of this friendly advance, as their wisdom shall conceive to be proper.

TH. JEFFERSON.[1]

Under the new government the Secretary of the Treasury was made directly accountable to Congress in certain financial matters; beyond this the heads of Departments were wholly subordinate to the President, and had no powers independent of him. The act creating the Department of Foreign Affairs said the Secretary must perform "such duties as shall, from time to time, be enjoined or intrusted to him by the President of the United States, agreeable to the Constitution." The act creating the Department of State said he was to receive from the President bills, orders, and resolutions of Congress; must keep the seal of the United States and affix it to the commissions of civil officers appointed by the President, but must not affix it to any commission until it had been signed by the President, "nor to any other instrument without the special warrant of the President therefor." The

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20. See also *Writings of Jefferson* (Ford), V, 258.

President must even approve the device of the seal to be made for the Department.

As the bill providing for the Department of Foreign Affairs passed the House, the Secretary could not even appoint his Chief Clerk, except with the approval of the President; but the Senate modified this provision and left this appointment wholly with the Secretary. The Chief Clerk was to have temporary charge of the Department, if a vacancy occurred in the Secretaryship; but this provision was improved in 1792 by authorizing the President to name the temporary head of the Department.

That in case of the death, absence from the seat of government, or sickness, of the Secretary of State, Secretary of the treasury, or of the secretary of the war department, or of any officer of either of said departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or until such absence, or inability by sickness shall cease. (Approved May 8, 1792.)

This was, in its turn, modified in 1795.

That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secretary of the department of War, or of any officer of either of the said departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said

respective offices, until a successor be appointed or such vacancy be filled: *Provided,* That no one vacancy shall be supplied, in manner aforesaid, for a longer term than six months. (Approved, February 13, 1795.)

The President deposited in the several Departments all official letters which came to him. Jefferson, after he became President, described the system in a letter to the Secretary of State:

WASHINGTON *Dec. 29, 1801.*

SIR

Having no confidence that the office of the private secretary of the President of the US. will ever be a regular & safe deposit for public papers or that due attention will ever be paid on their transmission from one Secretary or President to another, I have, since I have been in office, sent every paper, which I deem merely public, & coming to my hands, to be deposited in one of the offices of the heads of departments; so that I shall never add a single paper to those now constituting the records of the President's office; nor, should any accident happen to me, will there be any papers in my possession which ought to go into any public office. I make the selection regularly as I go along, retaining in my own possession only my private papers, or such as, relating to public subjects, were meant still to be personally confidential for myself. Mr. Meredith the late treasurer, in obedience to the law which directs the Treasurer's accounts to be transmitted to & remain with the President, having transmitted his accounts, I send them to you to be deposited for safe keeping in the Domestic branch of the office of the Secretary of State, which I suppose to be the proper one. Accept assurances of my affectionate esteem & high respect.

TH: JEFFERSON

The SECRETARY OF STATE.[1]

[1] Dept. of State MSS., Miscl. Letters.

Washington made the Department of State the repository of letters to him which often related to business under other Departments, and referred to it all the applications for office he received.[1] The following is an example of the communications sent from the President's office:

The Secretary of State.

United States *20 Jan: 1792*

By the President's command Tob^{s} Lear has the honor to transmit to the Secretary of State the enclosed Letter from Governor Lee, with a Report of a Committee of the General Assembly of Virginia, and a Resolution of that Body respecting certain bounty Lands granted by that State to the Officers & Soldiers of the Virginia Line.

The President requests the Secretary of State to take this matter into consideration and report to him thereon.

Tobias Lear,
S. P. U. S.[2]

Soon after he had organized his administration, Washington made an executive council from the heads of the three Departments and the Attorney-General, who had no Department; and when he desired a question submitted to them and could not himself be present at their meeting, he directed that they meet at the office of the Secretary of State. Lear wrote to Jefferson in 1793:

By the President's command T. Lear has the honor to

[1] See the Department's publication (1901), *Calendar of Applications and Recommendations for Office during the Presidency of George Washington.*

[2] Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

return to the Secretary of State the draught & copies of letters which he sent to the President this day,—and to inform the Secretary, that the President is so much indisposed that he does not believe he shall be able to meet the Gentlemen at his House tomorrow (the President having had a high fever upon him for 2 or 3 days past, & it still continuing unabated). He therefore requests the attendance of the Heads of the other Departments & the Attorney General at his office tomorrow—and lay before them for their consideration & opinion such matters as he would have wished to have brought to their view if they had met at the President's—& let the President know the result of their deliberations.

The President likewise directs T. Lear to send to the Secretary of State the opinions of the Gentlemen, expressed at their last meeting on the subject of Indian affairs in Georgia, for their signature to-morrow; & to have the blank which is left therein to limit the time of the service of the troops filled up.—

Also a note from the Attorney General relative to certain communications from Baltimore—which the President thinks would be best to lay before the Gentlemen.

TOBIAS LEAR
S. P. U. S.

31st May, 1793[1]

When Washington left for his Southern tour in 1791, he notified the members of his Cabinet of his itinerary, in order that they might be able to reach him with official communications. They met during his absence and considered public business. The Vice-President presided and the Secretary of State sent reports of the meetings and of such conclusions as had been reached.

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

Under date of April 17, 1791, Jefferson wrote to the President:

I had the honor of addressing you on the 2nd which I supposed would find you at Richmond, and again on the 10th which I thought would overtake you at Wilmington, the present will probably find you at Charleston.

According to what I mentioned in my letter of the 10th the Vice President, Secretaries of the Treasury and War and myself met on the 11th. Colonel Hamilton presented a letter from Mr. Short in which he mentioned that the month of Feby being one of the periodical months in Amsterdam when from the receipt of interest and refunding of capitals there is much money coming in there, and free to be disposed of, he had put off the opening of his loan till then, that it might fill the more rapidly, a circumstance which would excite the presumption of our credit—that he had every reason to hope it would be filled before it would be possible for him, after his then communication of the conditions, to receive your approbation of them and orders to open a second; which however he awaited, according to his instructions, but he pressed the expediting the order, that the stoppage of the current in our favor might be as short as possible. We saw that if under present circumstances, your orders should be awaited, it would add a month to the delay, and we were satisfied, were you present, you would approve the conditions and order a second loan to be opened—we unanimously therefore advised an immediate order on the condition the terms of the second loan should not be worse than those of the first.—General Knox expressed an apprehension that the 6 nations might be induced to join our enemies . . . .[1]

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20. The full letter may be seen in *The Writings of Jefferson* (Ford), V, 320.

He wrote on May 1, 1791:

. . . . I write to day indeed merely as the Watchman cries, to prove himself awake, and that all is well, for the last week has scarcely furnished anything foreign or domestic worthy of your notice . . . .[1]

The Secretary of State was the agency for transmitting all commissions to officers appointed by the President other than military officers, who were under the jurisdiction of the War Department, the form being as follows:

To Rufus Putnam, Esquire.

New York *April 7th 1790.*

Sir

The President of the United States desiring to avail the public of your services as one of the Judges in and over the Territory of the United States North West of the Ohio, I now have the honor of enclosing you the commission, and of expressing to you the sentiments of perfect esteem with which I am, &c[2]

Jefferson consulted his Chief constantly. The following is an example of the notes sent:

Mr. Jefferson has the honour of enclosing for the perusal of the President, rough draughts of the letters he supposes it proper to send to the court of France on the present occasion. He will have that of waiting on him in person immediately to make any changes in them the President will be so good as to direct, and to communicate to him two letters just received from Mr. Short.

April 5. 1790. a quarter before one.[3]

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20.

[2] Dept. of State MSS., American Letters, IV.

[3] Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

Little of the business of the Department, even of a routine character, was transacted without the President's sanction.

In a letter dated June 12, 1815, to the Secretary of the Navy, President Madison stated what were the relations of the head of a Department to the President.

> By the structure of the several Executive Departments, and by the practice under them, the Secretary of the Navy, like the other Secretaries, is the regular organ of the President for the business belonging to his Department; and with the exception of cases in which independent powers are specially vested in him by law, his official acts derive their authority from, or, in other words, carry with them, the authority of the Executive of the United States. Should a head of a Department at any time violate the intentions of the Executive, it is a question between him and the Executive. In all cases where the contrary does not appear, he is understood to speak and to act with the Executive sanction, or, in other words, the Executive is presumed to speak and to act through him.[1]

The Secretary of State, as the custodian of the seal of the United States and the agency for the promulgation of the laws, occupied a position of higher dignity than attached to the head of any other Department, and a closer relationship to the Chief Executive. His domestic functions were intended to be extensive. "At least," wrote Washington to Jefferson, "it was the opinion of Congress, that, after the division of all the business of a domestic nature between the Departments of the treasury, war, and state, those which would be comprehended in the latter might be per-

[1] Madison MSS., Library of Congress.

formed by the same person, who should have the charge of conducting the department of foreign affairs.'"[1] Jefferson described the Department as embracing "the whole domestic administration (war and finance excepted)."[2]

In many cases the President was obliged to decide to what Department certain duties belonged. Post-office affairs, for example, Jefferson had supposed would fall under his general supervision. He wrote to Timothy Pickering, the Postmaster-General:

PHILADELPHIA *March 28. 1792. Wednesday morning.*

SIR

The President has desired me to confer with you on the proposition I made the other day, of endeavoring to move the posts at the rate of 100 miles a day. It is believed to be practicable here, because it is practiced in every other country: the difference of expense, alone, appeared to produce doubts with you on the subject. If you have no engagement for dinner today, and will do me the favor to come and dine with me, we will be entirely alone, and it will give us time to go over the matter and weigh it thoroughly. I will in that case ask the favor of you to furnish yourself with such notes as may ascertain the present expense of the posts, for one day in the week to Boston, and Richmond, and enable us to calculate the savings which may be made by availing ourselves of the Stages. Be pleased to observe that the stages travel all the day: there seems nothing necessary for us then but to hand the mail along through the night till it may fall in with another stage the next day, if motives of economy should oblige us to be thus attentive to small savings. If a little latitude of expense can be allowed, I should be for only

[1] *Writings* (W. C. Ford), V, 139.
[2] *Ibid.* (P. L. Ford), II, 468.

using the Stages the first day, and then have our own riders. I am anxious that the thing should be begun by way of experiment for a short distance, because I believe it will so increase the income of the post office, as to show we may go through with it. I shall hope to see you at three o'clock. I am with great esteem Sir &c.[1]

Washington, however, thought that the post-office properly belonged under the supervision of the Treasury Department. The mint, on the other hand, he placed under the State Department. He wrote to Jefferson, October 20, 1792:

The post office (as a branch of Revenue) was annexed to the Treasury in the time of Mr. [Samuel] Osgood [Post-master-General]; & when Colo Pickering was appointed thereto, he was informed, as appears by my letter to him dated the 29 day of August 1791, that he was to consider it in that light. If from relationship, or usage in similar cases (for I have made no inquiry into the matter, having been closely employed since you mentioned the thing to me in reading papers from the War Office) the mint does not appertain to the Department of the Treasury, I am more inclined to add it to that of state, than to multiply the duties of the other.[2]

Accordingly, the Secretary of State managed the affairs of the mint. December 18, 1792, he wrote:

The President of the United States.

Th. Jefferson has the honor to send the President 2 cents made on Voight's plan, by putting a silver plug worth ¾ of a cent, into a copper worth ¼ of a cent. Mr. Rittenhouse is about to make a few by mixing the same plug by fusion with the same quantity of Copper. he will then make of copper

1 Dept. of State MSS., American Letters, IV.
2 Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

alone of the same size, and lastly he will make the real cent as ordered by Congress, four times as big. Specimens of these several ways of making the cent will be delivered to the Committee of Congress now having the subject before them.[1]

When Jefferson entered upon his duties he found two officers of equal rank in charge of the Department's affairs. Henry Remsen, Jr., had been elected Under-Secretary of Foreign Affairs March 2, 1784, and was given charge of the papers of the Department of Foreign Affairs when the new Government was formed. Roger Alden was elected Deputy Secretary of Congress under Charles Thomson in 1785, and was directed by Washington, when he became President, to take custody of the great seal and other papers of Congress not connected with foreign affairs, finance, or war. Although the law provided for one Chief Clerk, Jefferson determined to leave Remsen and Alden in equal rank in the new Department.

When I arrived here [he wrote to Benjamin Smith Barton August 12, 1790], I found Mr. Alden at the head of the home office and Mr. Remsen at that of the foreign office. Neither could descend to a secondary appointment, & yet they were each so well acquainted with their respective departments & the papers in them, that it was extremely desirable to keep both. On this ground, of their peculiar familiarity with the papers & proceedings of their respective offices, which made them necessary to me as indexes, I asked permission to appoint two chief clerks. . . . . One of them [Alden] chusing afterwards to engage in another line I could do nothing less, in return to the complaisance of the legis-

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

lature, than declare that as the ground on which alone they were induced to allow the second office, was now removed, I considered the office as at an end, and that the arrangement should return to the order desired by the legislature.[1]

The Act of June 4, 1790, gave the authority to employ two principal clerks each at a salary of $800 per annum. On July 25, 1790, Alden resigned to enter private life, being dissatisfied with the compensation of his office,[2] and Remsen then became the Chief Clerk, occupying that position until 1792, when he resigned to become the first teller of the new United States Bank, and his place was taken by George Taylor of New York, who was promoted from a clerkship in the Department.

The form of appointment was:

Department of State to wit.

George Taylor, heretofore a clerk in the office of the Secretary of State, is hereby appointed a chief clerk thereof in the room of Henry Remsen resigned. Given under my hand this first day of April, 1792.

TH: JEFFERSON.[3]

1 *Writings* (Ford), V, 223.

2 In 1822 Alden applied for an office from President Monroe, his personal friend. He stated that he had served in the Revolution in 1777 as aide to General Benedict Arnold; was afterwards a major in the brigade of General Huntington; served under Washington, and in 1780 was selected by him as an aide, but recommended Colonel Humphreys in his place. His last military service was as aide to General Parsons, and he resigned in February, 1781. Afterwards he studied law under Samuel Johnson of Connecticut; was appointed Deputy Secretary of Congress in 1785 and continued in that office until he became a principal clerk in the Department of State. (Dept. of State MSS., Applic. for Office.)

3 Dept. of State MSS., American Letters, IV.

June 17, 1790, Jefferson sent the Secretary of the Treasury an estimate of the probable expenses of the Department for one year from April 1 last:

	dollars
The Secretary of State, his salary	3500
1st The Home Office	
One Clerk a 800 dollrs and one do a 500 dollrs . .	1300
Office Keeper and Messenger	200
Stationary	110
Firewood	50
Newspapers from the different States, suppose 15 a 4 dollars	60
A collection of the Laws of the States to be begun, suppose	200
Drenan's account of 1789, August 19th going express . . . . . 6 dollrs	
Maxwell's Do 10	16
	1836
2d The Foreign Office	
One Clerk a 800 dollrs two Do a 500 dollrs each . .	1800
The french interpreter	250
Office-Keeper and Messenger	200
Rent of the Office	200
Stationary &c	75
Firewood	50
Gazettes from abroad, and do to be sent abroad . .	25
Contingencies	25
New York, *June 16th 1790*	2625
	[1]7961

December 11, 1790, he made the estimates for the ensuing year as $8,008.50, having combined the home

[1] Dept. of State MSS., American Letters, IV.

office and foreign affairs. He had one Chief Clerk at $800 per annum; three clerks at $500 each; "clerk for foreign languages," $250; "office rent at Philadelphia $187.50, Ditto at New York, supposing the house there not to be let, or if let, the Rent not recovered for the office is responsible, 150."[1]

One of the clerks, the French translator, it will be observed, received only $250 per annum, but it was not intended that he should devote his whole time to his official duties, as his colleagues did. Other translators were employed for other languages. Isaac Pinto, who was appointed interpreter of the Spanish language November 24, 1786, continued to serve for several years and complained in a letter dated November 13, 1789, that in three years his entire compensation had amounted to only £8.12.4.[2]

To the post of French translator Philip Freneau, "the poet of the Revolution," was appointed August 16, 1791, and while he held it he edited the *National Gazette,* a newspaper started at the instigation of Jefferson and his friends, and the organ of their party.

The clerks were paid out of a general fund, no specific appropriation being made until the Act of December 23, 1791, named as the whole amount for the ensuing year for the Secretary and officers $6,300.

The appropriation was meant to include the whole force of the Department, except messengers or

1 Dept. of State MSS., American Letters, IV.
2 *Ibid.*

laborers, although it spoke of the Secretary "and officers" and did not specify clerks. An act passed the same year required an oath of office from every clerk and "other officer" in the Departments. Clerks were thus officers. In 1868 Attorney-General Evarts, having the question presented to him by the Secretary of the Treasury, gave an opinion, following that of the Supreme Court,[1] that "clerks in the several departments were officers under the government of the United States."[2] In 1896, in response to a request for an opinion by the Secretary of State, the Attorney-General expressed the opinion that all of the officers of the State Department who were below the rank of the Assistant Secretaries were clerks in the meaning of the law.[3] Legally speaking, therefore, not only are clerks officers, but officers are clerks.

The act creating the Department of Foreign Affairs required that the Secretary and each of his subordinates should, before entering upon his duties, take an oath "*well and faithfully to execute the trust committed to him.*" This was modified subsequently by the Act of March 3, 1791, to require every clerk and "other officer" who had been appointed in any of the Departments and who had not already done so, as well as all who should subsequently be appointed, to take an oath or affirmation before a Justice of the

[1] 6 Wall., 393.
[2] 12 Op., 521.
[3] 15 Op., 3.

Supreme Court, or a Judge of a United States District Court, to support the Constitution of the United States as well as to faithfully perform the duties intrusted to him. No regular form of oath was prescribed, but the wording usually ran: "I, A. B., do solemnly swear (or affirm) that I will support the Constitution of the United States and well and faithfully execute the trust confided to me as ." Later a new form came into use, the first one of which is found in 1807:

I John Graham clerk in the Department of State do solemnly swear that I will well and faithfully execute the trust reposed in me according to the best of my skill and Judgment, and particularly that I will make no copies of, or extracts from, any Books or Papers belonging to the said office; but such as I shall be directed or authorized by the Secretary to make nor will I disclose the secrets of the office— I do further swear that I will support the Constitution of the United States and serve them in the office which I now hold, under their authority with fidelity and honor, according to the best of my skill and understanding.

JOHN GRAHAM

Sworn this 25th July 1807
before
William Thornton[1]

This form of oath was probably put into effect because there had been in 1800 disclosures of official secrets by two clerks in the office of the Auditor of the Treasury Department,[2] but it does not seem to

[1] Dept. of State MSS., Bureau of Appointments.

[2] They were Anthony Campbell and William P. Gardner. See *American Historical Review*, III, 282.

have remained in use for a long time, the simpler form of an oath of allegiance and to perform faithfully the duties of office being returned to.

The organic act of the Department of State required that the Secretary should provide a Department seal, the President approving the design. The War Department found ready for its use the old seal of the Board of War and Ordnance and the Treasury Department the seal of the Board of Treasury, but the Department of Foreign Affairs had had no seal, so there was no guide for the new Department to follow.

Jefferson had served in 1776 on the first committee chosen by Congress to prepare the design for the arms of the United States; but the device submitted was rejected. He was not, therefore, wholly inexperienced on the subject of official seals; but he does not appear to have made any attempt to make an original one for his Department, and simply chose the arms of the United States.

An impression of the seal in 1817 has been found and is doubtless the original design, being simply the arms with the legend, "Secretary of State's Office."[1] This was changed later to "Department of State, United States of America." There is no record of the precise time of the adoption of the seal, but the device has suffered no change, except such as has arisen from cutting a new seal from time to time.

The Department was the medium through which

[1] Dept. of State MSS., Miscl. Letters, Vol. 58.

correspondence with the National Government and the several state governments was conducted. How the communications from the states to Congress were to be transmitted was the subject of the following letter from Jefferson to Washington (April 1, 1790):

Th. Jefferson has the honor to inform the President that Mr Madison has just delivered to him the result of his reflections on the question *How shall communications from the several states to Congress through the channel of the President be made?*

He thinks that in no case would it be proper to go by way of *letter from the Secretary of state:* that they should be delivered to the houses either by the Secretary of state in person or by Mr. Leir, he supposes a useful division of the office might be made between these two, by employing the one where a matter of fact alone is to be communicated, or a paper delivered in the ordinary course of things and where nothing is required by the President; and using the agency of the other where the President chuses to recommend any measure to the legislature and to attract their attention to it.

The President will be pleased to order in this what he thinks best. T. Jefferson supposes that whatever may be done for the present, the final arrangement of business should be considered as open to alteration hereafter. The government is as yet so young, that cases enough have not occurred to enable a division of them into classes, and the distribution of these classes to the persons whose agency would be the properest.

He sends some letters for the President's perusal, praying him to alter freely anything in them which he thinks may need it.[1]

1 Wash. Papers, Record Book, Vol. 21; also *Jefferson's Writings* (Ford), V. 150.

Under the Confederation, the President of Congress always transmitted acts of Congress to the executives of the states, but the Secretary of Foreign Affairs was commonly the medium of correspondence with the governors.[1] The Department of Foreign Affairs took the duty of sending the acts and of other correspondence under the new government.

Jay wrote to the governors of New York and Massachusetts September 4, 1789:

> In pursuance of the Orders of the President of the United States, I have the honor of transmitting to your Excellency herewith enclosed, a copy of an Act of Congress of the 6th June 1788 and of a concurrent Resolution of the Senate and House of Representatives (passed by the latter on the 10th and concurred in by the former on the 19th August last). In pursuance of a request contained in this Resolution, the President has been pleased to appoint Andrew Ellicott to compleat the survey therein mentioned; who will begin that work on the tenth day of October next; and am directed to give your Excellency this information in order that the State of may if they think proper, have persons attending at the time.[2]

The joint resolution directed the geographer of the United States to ascertain the boundary line between the United States and the states of New York and Massachusetts, agreeably to the deeds of cessions of those states.

Jefferson continued the practice of Jay.

[1] *Writings of Madison* (Hunt), I, 291.
[2] Dept. of State MSS., American Letters, IV.

(Circular)

To the Governors of the several States.

NEW YORK, *March 31st 1790.*

SIR

I have the honor to send you herein enclosed two copies, duly authenticated, of the act providing for the enumeration of the inhabitants of the United States; also of the act to establish an uniform rule of naturalization; also of the act making appropriations for the support of Government for the year 1790; and of being with sentiments of the most perfect respect &c.

THOMAS JEFFERSON.[1]

It was Jefferson's opinion, however, that some of the correspondence with the governors of the states might be carried on directly with the President. He wrote to the President November 6, 1791:

I have the honour to inclose you a draught of a letter to Governor Pinckney, and to observe that I suppose it to be proper that there should, on fit occasions, be a direct correspondence between the President of the U. S. and the governors of the states; and that it will probably be grateful to them to receive from the President answers to the letters they address to him. The correspondence with them on ordinary business may still be kept up by the Secretary of State in his own name.[2]

There was no doubt, however, that the Secretary of State was to be the sole intermediary of correspondence with our agents abroad and the agents of foreign governments to the United States. The rule was laid down before Jefferson's appointment, when

[1] Dept. of State MSS., American Letters, IV.

[2] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20.

Washington declined direct correspondence with Moustier, the French minister.

American representatives continued to serve abroad without in all cases receiving new commissions. Jefferson wrote to Washington February 4, 1792:

> The laws and appointments of the antient Congress were as valid and permanent in their nature, as the laws of the new Congress, or appointments of the new Executive; these laws & appointments in both cases deriving equally their source from the will of the Nation: and when a question arises, whether any particular law or appointment is still in force, we are to examine, not whether it was pronounced by the antient or present organ, but whether it has been at any time revoked by the authority of the Nation expressed by the organ competent at the time. The Nation by the act of their federal convention, established some new principles & some new organizations of the government. This was a valid declaration of their will, and *ipso facto* revoked some laws before passed, and discontinued some offices and officers before appointed. Whenever by this instrument, an old office was superseded by a new one, a new appointment became necessary; but where the new Constitution did not demolish an office, either expressly or virtually, nor the President remove the officer, both the office and the officer remained. This was the case of several; in many of them indeed an excess of caution dictated the superaddition of a new appointment; but where there was no such superaddition, as in the instance of Mr. Dumas, both the office and the officer still remained: for the will of the nation, validly pronounced by the proper organ of the day, had constituted him their agent, and that will has not through any of its successive organs revoked his appointment.[1]

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20. *Writings of Jefferson* (Ford), V, 438.

The complete power of the Executive over the transaction of business pertaining to foreign countries is illustrated by—

The opinion of the Secretary of State on the construction of the powers of the Senate with respect to their agency in appointing Ambassadors &c and fixing the grade.

The Constitution having declared that the President "shall *nominate,* and by and with the advice and consent of the Senate, shall *appoint* Ambassadors, other public Ministers and Consuls," the President desires my opinion whether the Senate has a right to negative the *grade* he may think it expedient to use in a foreign mission, as well as the *person* to be appointed?

I think the Senate has no right to negative the *grade.*

The Constitution has divided the powers of Government into three branches, Legislative, Executive and Judiciary, lodging each with a distinct magistracy. The Legislative it has given completely to the Senate and House of Representatives: It has declared that the Executive powers shall be vested in the President, submitting only special articles of it to a negative by the Senate: and it has vested the Judiciary power in the Courts of Justice, with certain exceptions also in favor of the Senate.

The transaction of business with foreign nations is Executive altogether. It belongs then to the head of that department, *except* as to such portions of it as are specially submitted to the Senate. *Exceptions* are to be construed strictly. The Constitution itself indeed has taken care to circumscribe this one within very strict limits: for it gives the *nomination* of the foreign Agent to the President—the *appointment* to him and the Senate jointly; and the *commissioning* to the President. This analysis calls our attention to the strict import of each term. To *nominate* must be to *propose; appointment* seems to be the act of the will which constitutes or makes the Agent; and the Commission is the public evi-

dence of it. But there are still other Acts previous to those not specially enumerated in the Constitution; towit 1. the destination of a mission to the particular country where the public service calls for it: and, 2nd. the character, or grade to be employed in it. The natural order of all these is 1. destination. 2nd grade. 3d nomination. 4th appointment. 5th commission. if *appointment* does not comprehend the neighboring Acts of *nomination* or *commission,* (and the constitution says it shall not, by giving them exclusively to the President) still less can it pretend to comprehend those previous and more remote of *destination* and *grade.* The Constitution analyzing the three last, shews they do not comprehend the two first. The 4th is the only one it submits to the Senate, shaping it into a right to say that "A. or B. is unfit to be appointed, but the grade fixed on is not the fit one to employ" or "our connections with the Country of his destination are not such as to call for any mission." The Senate is not supposed by the Constitution to be acquainted with the concerns of the Executive department. It was not intended that these should be communicated to them: nor can they therefore be qualified to judge of the necessity which calls for a mission to any particular place or of the particular grade, more or less marked, which special and secret circumstances may call for. All this is left to the President. They are only to see that no unfit person be employed.

It may be objected that the Senate may, by continual negatives on the *person,* do what amounts to a negative on the *grade:* and so indirectly defeat this right of the President. But this would be a breech of trust, an abuse of the power confided to the Senate, of which that body cannot be supposed capable. So the President has a power to convoke the legislature; and the Senate might defeat that power by refusing to come. This equally amounts to a negative on the power of convoking. Yet nobody will say they possess such a negative, or would be capable of usurping it by such oblique means. If the Constitution had meant to give the Senate a

negative on the grade or destination, as well as the person, it would have said so in direct terms, and not left it to be effected by a sidewind. It could never mean to give them the use of one power thro' the *abuse* of another.

TH JEFFERSON[1]

New York
April 24 } 1790

The arrangement of compensation for officers in the foreign service was left to the President, but the act of July 1, 1790, limited the whole amount to be expended to $40,000 per annum, and specified the maximum salaries. The President was authorized—

To draw from the treasury of the United States, a sum not exceeding forty thousand dollars, annually, to be paid out of the moneys arising from the duties on imports and tonnage, for the support of such persons as he shall commission to serve the United States in foreign parts, and for the expense incident to the business in which they may be employed. *Provided,* That, exclusive of outfit, which shall, in no case, exceed the amount of one year's full salary to the minister plenipotentiary or charge des affaires, to whom the same may be allowed, the president shall not allow to any minister plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services, and other expenses; nor a greater sum for the same, than four thousand five hundred dollars per annum to a charge des affaires; nor a greater sum for the same, than one thousand three hundred and fifty dollars per annum to the secretary of any minister plenipotentiary. *And provided, also,* That the president shall account, specifically, for all such expenditures of the said money as, in his judgment, may be made public, and also for the amount of such expenditures as he may think it adviseable not to specify, and cause a

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20. See also *Writings of Jefferson* (Ford), V, 161.

regular statement and account thereof to be laid before congress annually, and also lodged in the proper office of the treasury department.

SECT. 2. *And be it further enacted,* That this act shall continue and be in force for the space of two years thereafter and no longer.

Jefferson submitted the following to the President:

Observations &c respecting Diplomatic Matters, and the allowances made by Congress.

The bill on the intercourse with foreign nations restrains the President from allowing to Ministers Plenipotentiary or to Chargés des Affairs more than 9000 and 4500 dollars for their personal services and other expences. This definition of the objects for which the allowance is provided, appearing vague, the Secretary of State thought it his duty to confer with the Gentlemen heretofore employed as Ministers in Europe, to obtain from them, in aid of his own information, an enumeration of the expences incident to these offices, and their opinion which of them would be included within the fixed salary, and which would be entitled to be charged separately. He therefore asked a conference with the Vice President, who was acquainted with the residences of London and the Hague, and the Chief-Justice who was acquainted with that of Madrid, which took place yesterday.

The Vice President, Chief Justice, & Secretary of State concurred in opinion that the Salaries named by the Act are much below those of the same grade at the Courts of Europe, and less than the public good requires they should be, consequently, that the expences not included within the definition of the law should be allowed as an additional charge.

1. Couriers, gazetts, translating necessary papers, printing necessary papers, aids to poor Americans; all three agreed that these ought to be allowed as additional charges not

included within the phrase "his personal services, and other expences."—

2. Postage, Stationary, Court-fees.—One of the Gentlemen being of opinion that the phrase "personal services & other expences," was meant to comprehend all the *ordinary expences* of the office, considered this second class of expences as *ordinary,* and therefore included in the fixed salary the 1st class before mentioned he had viewed as *extraordinary.* The other two Gentlemen were of opinion this 2d class was also out of the definition, & might be allowed in addition to the salary—one of them particularly considered the phrase as meaning "personal services personal expences," that is, expences for his personal accommodation, comfort & maintenance. This 2d class of expences is not within that description.

3. Ceremonies; such as diplomatic and public Dinners, Galas & illuminations. One Gentleman only was of opinion these might be allowed.

The expences of the 1st class may probably amount to about 50 Dollars a year; that of the 2d to about four or five hundred dollars. Those of the 3d are so different at different Courts, & so indefinite in all of them that no general estimate can be proposed.

The Secretary of State thought it his duty to lay this information before the President, supposing it might be satisfactory to himself; as well as to the Diplomatic Gentlemen, to leave nothing uncertain as to their allowances; & because too, a previous determination is in some degree necessary to the forming an estimate which may not exceed the whole sum appropriated. Several papers accompany this containing former opinions on this subject.

The Secretary of State has also consulted on the subject of the Morocco consulships, with Mr. Barclay, who furnished him with the note of which a copy accompanies this. Considering all circumstances Mr Barclay is of opinion we had better have only one consul there; and that he should be

the one now residing at Morocco, because, as Secretary to the Emperor, he sees him every day & possesses his ear. He is of opinion 600 Dollars a year might suffice for him; & that it should be proposed to him, not as a salary, but as a sum in gross intended to cover his expenses, & to save the trouble of keeping accounts; that this Consul should be authorised to appoint Agents in the Seaports, who would be sufficiently paid by the consignments of vessels. He thinks the Consul at Morocco would most conveniently receive his allowance through the channel of our Chargé at Madrid, on whom also this consulate had better be made dependent for instructions, information & correspondence, because of the daily intercourse between Morocco and Cadiz.

The Secretary of State, on a view of Mr Barclay's Note, very much doubts the sufficiency of the sum of 600 Dollars; he supposes a little money there may save a great deal; but he is unable to propose any specific augmentation till a view of the whole diplomatic Establishment and its expences, may furnish better grounds for it.

TH: JEFFERSON

17th July, 1790.[1]

In 1792 (November 5) Jefferson made a report on the subject of expenditures as follows:

Estimate of the fund of 40,000 Dol. for foreign intercourse, and its application

	D	D
1790 July 1. to 1791 July 1. a year's appropriation	40,000	
1791 July 1, to 1792 July 1 a year's appropriation	40,000	
1792 July 1, to 1793, Mar. 3 being 8 1/10 months	27,000	
		107,000

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20.

1790. July 1. to 1791. July 1, actual expenses incurred	21,054
1791. July 1. to 1792 July 1. actual expenses incurred	43,431.09
1792. July 1. to 1793. Mar. 3. the probable expenses may be abt. . . .	26,300
Surplus unexpended will be about . .	16,214.91
	107,000

He estimated the ordinary expenses of the different grades of diplomatic missions as follows (dated November 5, 1792):

Estimate of the ordinary expence of the different diplomatic grades, annually.

A Minister Plenipotentiary

	D
Outfit ⅐ of 9,000 . . .	1285.71
Salary	9000.
Secretary	1350.
Extras	350.
Return of ⅐ of 2250 . .	321.42
	12307.13

A Resident

	D
Outfit ⅐ of 4500 . . .	642.85
Salary	4500.
Extras	350.
Return ⅐ of 1125 . . .	160.71
	5653.56

Agent

	D
Salary	1300
Extras	350
	1650

Medals to foreign ministers, suppose 5. to be kept here & to be changed once in 7. years will be about 654.6 annually

To support the present establishment would require

	D
for Paris, Minister Plenipoty	12,307.13
London do	12,307.13
Madrid Resident . .	5,653.56
Lisbon do . .	5,653.56
Hague do . .	5,653.56
Medals to foreign ministers .	654.6
	42,229.54

A reduction of the establishment, to bring it within

	D
the limits of 40,000.	
for Paris, a Minister Plenipty	12,307.13
London do	12,307.13
Madrid, a Resident .	5,653.56
Lisbon, do . .	5,653.56
Hague, an agent . .	1,650.
Medals to for. ministers .	654.6
Surplus	1,774.02
	40,000.

He also made the following:

Estimate of Demands on the Foreign Fund from July 1st, 1790, to March 4, 1793.[1]

	1790-1.	1791-2.	1792-3. 8 months.
France.... Salary	4,500	6,000	6,000
Secretary of chargé des affaires during his absence in Holland.—Suppose 4 months ab^{t}.	243	1,350	900
His expenses on that journey ab^{t}	675		
Gazettes, postage & other extras ab^{t}	350	350	240
Outfit to Minister Plenipo	.....	9,000	
England. Special Agent, viz:			
Mr. Gouverneur Morris from 1790, Mar. 24 to Sept. 24	2,000		
Minister-Plenipo: his outfit	.....	9,000	
His salary, suppose from March 1st, 1792	.....	3,000	6,000
Extras	.....	80	240
His Secretary, suppose from March 1st, 1792	.....	450	900
Spain. Chargé des affaires:			
His salary	4,500	4,500	3,000
Extras	350	350	240
Additional Commissioner, his traveling and tavern expenses. Conjecture	.....	1,500	
Portugal. Minister Resident:			
His outfit	4,500		
Salary from Feby 21st to July 1st	1,625	4,500	3,000
Extras	126	350	240
Hague. Agent: his salary	1,300	1,300	866
Extras	100	100	66
Minister Resident: his outfit	.....	4,500	
Salary, suppose from March 1st, 1792	.....	1,500	3,000
Extras	.....	80	240
Col^{o} Humphrey's Agency from Augt 11, 1790 to Feby. 21, 1791, a 2250 Dol^{s} p^{r} Ann.	1187.5		
Extras	185.		
Foreign Ministers taking leave. Medals.			
Luzerne about 1062.5			
Von Berkel 697.			
Du Moustier 555.5	2,315		
	23,956.5	47,910	24,932
Total	.....	.....	96,798.5
The Foreign Fund a 40,000 Dolls p. ann. from July 1st, 1791 to Mar. 4, 1793	.....	.....	106,666⅔
Balance will remain to guard against contingencies	.....	.....	9,868.1

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 21.

This question is further elucidated by the following (dated April 18, 1793):

The Secretary of State thinking it his duty to communicate to the President his proceedings of the present year for transferring to Europe the annual fund of 40,000 Dollars appropriated to the department of State (a report whereof was unnecessary the two former years, as monies already in the hands of our bankers in Europe were put under his orders)

Reports

That in consequence of the President's order of Mar. 23. he received from the Secretary of the Treasury Mar. 31. a warrant on the Treasury for 39,500 Dollars: that it being necessary to purchase private bills of exchange to transfer the money to Europe, he consulted with persons acquainted with that business, who advised him not to let it be known that he was to purchase bills at all, as it would raise the exchange, and to defer the purchase a few days till the British packet should be gone, on which went bills generally sunk some few percent. He therefore deferred the purchase, or giving any orders for it till Apr. 10, when he engaged Mr. Vaughan (whose line of business enabled him to do it without suspicion) to make the purchase for him: he then delivered the warrant to the Treasurer, & received a credit at the Bank of the U. S. for 39,500 D. whereon he had an account opened between "The Department of State & the Bank of the U S." That Mr. Vaughan procured for him the next day the following bills.

	£ Sterl		Doll
Willing, Morris & Swanwick on John & Francis Baring & Co. London	3000-	for	13,000
Walter Stewart on Joseph Birch—merch^{t} Liverpool	400-0	=	1,733.33
Robert Gilmer & Co. on James Strachan & James Mackenzie, London, indorsed by Mordecai Lewis £200			
150	600-0	=	2,600
250			
	4000-0	=	17,333.33

averaging 4s-7 38/100d the dollar, or about 2½ per cent above par, which added to the 1. per cent loss heretofore always sustained on the government bills (which allowed but 99 florins, instead of 100 do. for every 40. dollars) will render the fund somewhat larger this year than heretofore: that these bills being drawn on London (for none could be got on Amsterdam but to considerable loss, added to the risk of the present possible situation of that place) he had them made payable to Mr. Pinckney, and inclosed them to him by Capt. Cutting, in the letter of Apr. 12 now communicated to the President, and at the same time wrote the letter of the same date to our bankers at Amsterdam & to Colo Humphreys, now also communicated to the President, which will place under his view the footing on which this business is put, and which is still subject to any change he may think proper to direct, as neither the letters nor bills are yet gone.

The Secretary of state proposes hereafter to remit in the course of each quarter, 10,000 D. for the ensuing quarter, as that will enable him to take advantage of the times when exchange is low. He proposes to direct at this time a further purchase of 12,166.66 D. (which with the 500 D. formerly obtained & 17,333.33 now remitted, will make 30,000 D of this year's fund) at long sight, which circumstance with the present low rate of exchange will enable him to remit it to advantage.

He has only further to add that he delivered to Mr. Vaughan orders on the bank of the U S. in favor of the persons themselves from whom the bills were purchased for their respective sums.

This Act of 1790 was continued in force in subsequent years, with additional appropriations for specific purposes of foreign intercourse, and the Act of May 1, 1810, included consuls to Algiers and other states on the coast of Barbary, the salary being limited to

$4,000 for the consul at Algiers and $2,000 for those at other states on the Barbary coast; but they were to have no payments whatever for outfits. By this act, also, the President was authorized to make foreign appointments during the recess of the Senate, to "be submitted to the Senate at the next session thereafter, for their advice and consent."

Other consuls were not, at this time, in receipt of regular salaries, their payment coming from the fees of office which they were allowed to collect.

It was the practice of the Secretary of State to make recommendations to the President for consular appointments. The applicants were not many and were usually from merchants resident in the ports. February 23, 1791, in sending a list of applicants, Jefferson recommended that a vice-consul be nominated in this form:

> John Culnan, citizen of the U. S. late of its armies, and now a merchant at Teneriffe, to be vice consul of the U. S. for the Canary Islands.
>
> For consul:
>
> James Yard, of Pennsylvania, to be Consul for the U. S. in the Island of Santa Cruz, and such other parts within the allegiance of his Danish Majesty as shall be nearer thereto than to the residence of any other Consul, or Vice Consul of the U. S. within the same allegiance.[1]

[1] Dept. of State MSS., Wash. Papers, Record Book, Vol. 20.

CHAPTER VI

SOMETIME DUTIES OF THE DEPARTMENT

AS the Department of State was created to manage, not only foreign affairs, but such domestic duties as did not fall under the War and Treasury Departments, it performed certain functions which in the development of executive machinery subsequently passed out of its jurisdiction.

First of these in magnitude is the granting of patents for inventions. The Act of April 10, 1790, which first regulated the business, authorized the Secretary of State, Secretary of War, and Attorney-General, or any two of them, to issue letters patent in the name of the United States, upon petition setting forth the invention or discovery of "any useful art, manufacture, engine, machine, or device, or any improvement therein, not before known or used," if the invention or discovery was deemed to be useful and important, granting to the petitioner, for a term not exceeding fourteen years, the sole and exclusive right of making, using, and selling it. The Attorney-General was to examine the letters patent, and, if he found them to conform to the act, was to so certify and present them to the President, who was to cause the seal of the United States to be affixed, when they became available, and, after having been recorded in the Secretary of State's office and endorsed by him,

they were to be delivered to the patentee or his agent. The grantee was to deposit descriptions, specifications, drawings, and models, and certified copies of the specifications were to be accepted before all courts as competent evidence. Copies of specifications and permission to have copies of models made were to be granted upon application to the Secretary of State. Penalties were provided for infringements. The fees to be paid by patentees to the several officers who made out the letters patent were: for receiving and filing the petition, fifty cents; for filing specifications, ten cents for every copy sheet of one hundred words; for making out the patent, two dollars; for affixing the great seal, one dollar; for endorsing the day of delivering the patent, and all intermediate services, twenty cents.[1] Remsen, the chief clerk of the Department, who was immediately in charge of the patent business, prepared the papers for final action by the board, and the patent granted to Samuel Hopkins July 31, 1790, which was the first one issued, was signed by the President, Thomas Jefferson, and Edmund Randolph, the Attorney-General. February 21, 1793, another act was approved abolishing the joint agency and lodging the granting of patents in the Secretary of State, the Attorney-General, however, to examine the letters patent and pass upon their conformity to the act.[2]

In 1802 began the real formation of the Patent Office, with the assignment to the duty of superintending that part of the Department's business of a remarkable

[1] 1 *Stat.*, 109.
[2] 1 *Stat.*, 318.

and versatile character, Dr. William Thornton, who was styled Superintendent of Patents, and who contined in that office for twenty-six years, until his death March 28, 1828.[1] He received his first government appointment in connection with the laying out of Washington in 1794. It appears from his letters that he had been a student at the University of Edinburgh, and in London and Paris, where he studied mineralogy under Faujas de St. Fond.[2] His salary at first was $1,400 per annum, but was increased by Madison from October 24, 1808, to $2,000, until 1810, when inadequate appropriations compelled its reduction. In a memorial to the House of Representatives, dated March 21, 1818, he submitted an account for a balance due him of $4,186.18.[3]

His administration was marked by friction with the Secretary and inventors, the latter charging him with discrimination and personal interest in some of the patents issued. Among the most vigorous of these complainants was Robert Fulton, between whom and

[1] No biography of Thornton exists, yet one would be an interesting contribution to history. He was the author of erudite pamphlets on speech and the origin of language, and invented a system of lip-reading. He collaborated with John Fitch in building a steamboat and invented the boiler which made Fitch's boat a success. He stamped his genius in architecture upon the capitol. He was a pioneer in the cause of negro emancipation and the colonization of free blacks in Africa. A great many of his papers are in the Department of State, especially among the applications for office, and the papers which he left are in the Library of Congress.

[2] Thornton to J. Q. Adams, September 15, 1820; to Jefferson, January 8, 1821; to Madison, January 20, 1821. Dept. of State MSS., applications for office.

[3] Dept. of State MSS., Miscl. Letters.

Thornton a bitter feud arose. Fulton, in a letter dated December 27, 1814, wrote the Secretary, asking that patents granted Thornton be annulled, as they were infringements on his inventions and that Thornton be dismissed from office.[1] On December 23, 1814, Thornton had petitioned for a patent for an improvement in the application of steam to flutter or paddle wheels on the sides of a boat. Fulton's request was granted in part, and Thornton was prohibited from taking out any patents while he held the office of Superintendent, a verdict against which he protested vigorously and which was withdrawn.[2] He described the vexation of his situation in a letter to Secretary J. Q. Adams, December 13, 1817, saying:

> I have hopes if there be a purgatory, that the Superintendt of the Patent office will be exempt from many sufferings in consequence of the dire situation he has experienced on earth.[3]

The method of procedure required the applications to be made to the Superintendent, who passed upon them and then submitted the question of issuing the patents to the Secretary of State, and applicants who were dissatisfied with the Superintendent's ruling appealed from them to the Secretary of State.[4]

Upon Thornton's death, Thomas P. Jones was appointed the Superintendent, and he in turn was succeeded by Dr. John D. Craig in 1830. Craig was the first to make an orderly arrangement by subjects of the drawings and models in his charge, but his

[1] Dept. of State MSS., Miscl. Letters.
[2] Thornton MSS., Lib. Cong.
[3] Dept. of State MSS., Miscl. Letters.
[4] *Ibid.*

methods of business were so irregular that an official investigation became necessary in 1833. He was censured and a number of new rules for conducting his office were laid down.

In 1810, by Act of April 28, Congress authorized the moving of the office to a new building which was to be erected, and April 11, 1816, President Madison recommended the establishment of a distinct patent office under the Department of State, with an adequate salary for the Director.[1] Additional quarters were provided for in 1828, and in 1836 the Patent Office building was ordered to be built.[2]

The title of Superintendent, which Thornton held by courtesy, was not recognized by law until April 23, 1830, when the salary was fixed at $1,500.[3] The whole system underwent modification, and all previous acts were repealed by the Act of July 4, 1836, which created the office of Commissioner of Patents, under the Department of State, provided for a chief clerk, authorized the designing and using of a separate seal, and specified minutely how patents were to be applied for, granted, etc. All patents were to be signed by the Secretary of State, and countersigned by the Commissioner of Patents.[4] In 1849, when the Department of the Interior was formed, the Patent Office became a part of it and all the records were transferred as the act required. It had, for all practical

1 *Messages and Papers of the President*, 1: 571.
2 4 *Stat.*, 303, V, 115.
3 4 *Stat.*, 396.
4 5 *Stat.*, 117, *et seq.*

purposes, been independent of the Department of State for some years. From 1790 to 1836 the Secretary of State reported annually the lists of patents to Congress, from 1836 to 1842 the reports were made by the Commissioner of Patents, and after 1843, until the business passed to the Interior Department, the reports included the claims of patents granted.[1]

The control of the federal government over the granting of patents was given by the eighth section of the first article of the Constitution, which conferred upon "Congress the power to promote the progress of science and useful arts by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." Copyrights and patents were thus grouped together, and the former became in a limited degree a part of the sometime duties of the Department of State.

In 1783 Connecticut, New York, Massachusetts, and New Jersey, in the order named, adopted copyright laws, and in 1785 Virginia and Delaware, but the other states never had such laws.[2] Under the new government the system was regulated by the Act of May 31, 1790,[3] requiring, in order to secure copyright of a map, chart or book, first, that its title be deposited in

[1] On the subject of the history of the Patent Office, see *Official Gazette,* Vol. 12, No. 15, and the "Patent System of the United States, a History," by Levin H. Campbell, Washington, 1891; also Annual Report of the Commissioner of Patents, 1900, VIII, "The American Patent System."

[2] "Origin of the Copyright Laws in the United States," in *A collection of Papers on Political, Literary and Moral Subjects,* by Noah Webster, pp. 173, *et seq.,* New York, 1843.

[3] 1 *Stat.,* 125.

the clerk's office of the United States District Court where the person in interest resided and the record of the clerk inserted upon the first or second page; second, that public notice be then given in the newspapers; and third, that within six months a copy of the publication be deposited in the Department of State for preservation. The copyright was to run fourteen years, as in the case of a patent, and might be renewed. By a subsequent act[1] (April 29, 1802), the provisions were extended to engraved prints. In 1831[2] (Act of February 3), musical compositions were included, and the clerks of the courts were ordered to transmit at least once a year to the Secretary of State certified lists of all copyrights granted by them and copies of the books or works for preservation in the Department. It was thus never more than the place of deposit of copyrighted works and of the records. A book, when transmitted directly by an author, was usually accompanied by a letter, of which the following is an example:

Boston, Jany. 2, 1819.

Dear Sir,

I have transmitted a Copy of a Spelling Book which I have just published, which I wish to have deposited in your office, according to Law, to secure the Copyright. I have also taken the liberty to send you a copy which I hope will meet with your approbation—if it should, I should feel myself under great obligation, to have you make its merits known.

I remain with due respect & Esteem, Your friend,

& humble servt

Isaiah Thomas, Jr.

[1] 2 *Stat.*, 171.

[2] 4 *Stat.*, 436.

The Act of February 5, 1859,[1] ordered that all the "books, maps, charts, and other publications of every nature whatever" deposited in the Department of State, together with all the records in regard to them, should be removed to the Department of the Interior and henceforth be under its control. This terminated the Department's connection with this branch of the government's business. It remained with the Interior Department until by the Act of July 8, 1870, it passed under the control of the Librarian of Congress.[2]

The second section of article I of the Constitution required that an enumeration of the inhabitants of the United States be made within three years after the meeting of the first Congress, and the first census was, accordingly, ordered by the Act of March 1, 1790,[3] to be made by the several United States marshals, who had power to appoint as many assistants as they might deem necessary. The enumeration was to begin on the first Monday in August and to close within nine months. The marshals were to file the returns with the several clerks of the federal district courts for preservation and forward the aggregate results of the enumeration to the President. Each assistant marshal was required, before sending his report to the marshal, to cause a signed copy of it to be posted in the most conspicuous places in the district for public inspection. The President sent the returns to Congress, and they were ordered to be printed under

[1] 11 *Stat.*, 380.
[2] 16 *Stat.*, 212.
[3] 1 *Stat.*, 101.

the supervision of the Secretary of State. The first printed census bore an indorsement dated October 24, 1791, which said it was "truly stated from the original returns deposited in the office of the Secretary of State." The volume had been prepared for the press by the Department, by which also it was distributed. The marshals occasionally asked for and received instructions on the subjects of their duties from the Department. The authority of the Secretary of State was increased by the law authorizing the second census (February 28, 1800),[1] the clerks of the district courts being required to send the returns directly to him. He was also required to furnish necessary instructions to the marshals.

The first two censuses were a bare enumeration of the population. In the schedule of 1790 there were but six inquiries. These were, "names of heads of families," "free white males of sixteen years and upwards, including heads of families," "free white females, including heads of families," "all other free persons," "slaves." The schedule of 1800 had fourteen subdivisions, providing a more minute enumeration by ages, and an inquiry covering "all other free persons, except Indians, not taxed." In the census of 1810 the first attempt was made to obtain statistics of manufactures by a separate schedule with upwards of sixty-eight subdivisions, "cotton manufacturing establishments," "cotton duck," "hempen manufacturing establishments," etc. This part of the census was, however, under the supervision of the Secretary

[1] 2 *Stat.*, 11.

of the Treasury. It was repeated in the census of 1820 (Act of March 14), but put "under the direction of the Secretary of State, and according to such instructions as he shall give, and such forms as he shall prescribe." The population schedule of this census provided for an enumeration of "foreigners not naturalized."

The circular instructions issued to the marshals June 20, 1820, by J. Q. Adams were long and minute and were accompanied by full schedules which were to be used. The purposes of Congress in passing the law were, according to the circular, not only to obtain the aggregate amount of the population of the United States, but also

> to ascertain in detail the proportional numbers of which it is composed, according to the circumstances of sex, color, age, condition of life, as heads or members of families, as free or slaves, as citizens or foreigners, and particularly of the classes, (including slaves) engaged in Agriculture, Commerce, and Manufactures—And, also, to obtain an account of the manufacturing establishments, and their manufactures, throughout the United States.[1]

The census of 1830 omitted the manufacturing statistics, but they were restored in the schedule of 1840. There was also a schedule of "universities or colleges," "number of students," "academic and grammar schools," "number of scholars," "primary and common schools," "number of scholars," "number of scholars at public charge," "number of white persons over 20 years of age who cannot read and

[1] Circulars, Vol. 1, No. 15, Dept. of State.

write." Following is a description of the census publications as long as they were issued by the Department of State and of the cost of each census.

1790. "Return of the whole number of persons within the several districts of the United States, &c." The first census publication was an octavo pamphlet of fifty-two pages, published in 1792. The entire cost of this census was $44,377.18.

1800. "Return of the whole number of persons within the several districts of the United States, &c." This was a folio of seventy-eight pages, published in 1801. The cost of this census was $66,609.04.

1810. The report of this census was in two folio volumes: I. "Aggregate amount of each description of persons within the United States, &c." This was an oblong folio of ninety pages; but it does not show the date of publication. II. "A series of tables of the several branches of American Manufactures, exhibiting them in every County of the Union, so far as they are returned in the Reports of the Marshals and of the Secretaries of the Territories, and of their respective assistants, in the autumn of the year 1810; together with returns of certain doubtful goods, productions of the soil and agricultural stock, so far as they have been received." 170 pp., 4to. Edited by Tench Coxe, and published May 30, 1813. The cost of the census of 1810, $178,444.67.

1820. I. "Census of 1820, &c.," a folio of one hundred and sixty-four pages; published in 1821. II. "Digest of Accounts of Manufacturing Establishments, &c.," a folio of one hundred pages, printed in 1823. Cost of the census, $208,525.99.

1830. "Fifth Census or Enumeration of the Inhabitants of the United States." This volume was a large folio of 163 pages, printed in 1832. This report was so wretchedly printed, that Congress required by law a republication, which was made the same year under the immediate direction of

the Secretary of State. The erroneous and corrected editions are bound together. This republication enhanced the cost of this census to $378,543.13.

1840. I. "Compendium of the Enumeration of the Inhabitants and Statistics of the United States," a folio of 379 pages, printed in 1841. II. "Sixth census or Enumeration of the Inhabitants of the United States," folio of 470 pages, 1841. III. "Statistics of the United States, &c.," a large, oblong folio of 410 pages, 1841. IV. "Census of pensioners for Revolutionary and Military Service, with their names, ages, and places of residence, &c." 4to, 196 pages.

The total cost of these censuses was $844,370.95[1]

The Act of May 23, 1850, transferred the taking of the census of that year to the Department of the Interior, under whose supervision it remained[2] until, on July 1, 1903, it passed to the new Department of Commerce and Labor,[3] and later to the Department of Commerce.

Although the office of Attorney-General was established in 1789 (Act of September 24), he was given no office of his own, as it was supposed that his duties for the government would only occupy a part of his time. His public office was his private law office also, but so far as he had a public office it was in the Department of State, until in 1818 an office was given him by Congress. The federal judges, marshals and attorneys corresponded with the Secretary of State,

[1] Report of Committee on the Ninth Census, to the House of Representatives, by Mr. Garfield, January 18, 1870, 41st Cong., 2d Session.

[2] 9 *Stat.*, 428.

[3] See "History and Growth of the U. S. Census," by Carroll D. Wright and William C. Hunt, Senate Doc. No. 194, 56th Cong., 1st Session, 1899-1900.

and the two latter received instructions from him, and were not under the law under the authority of the Attorney-General. Thus, on July 27, 1801, the attorney for Georgia transmitted a report of the cases which had been instituted and decided and which were still pending in the United States circuit court; on March 7, 1791, the attorney for Maryland reported on the laws of that state which might be construed as conflicting with the treaty between the United States and Great Britain; the attorney for Pennsylvania on March 7, 1791, reported that Henry Smith, a counterfeiter, then in jail, desired to give information concerning counterfeiting if he might receive a pardon, and asked for the President's instructions in the premises; on August 24, 1793, the attorney for Massachusetts reported concerning the fitting out of French privateers. The correspondence with the marshals was similar to that with the attorneys. Thus, on December 1, 1790, the marshal for New York asked for leave of absence to visit Europe; the marshal for Pennsylvania reported December 3, 1790, that a fine had been imposed upon Shubael Swain for attempting to defraud the revenue of the United States; on April 17, 1813, the marshal for Georgia sent the petition of John McNish, an alien, for permission to remain at Savannah. The judges were, of course, under no obligations to report to the Secretary of State and did so only occasionally and without system. Thus, the judge for Pennsylvania wrote on December 12, 1791, recommending the pardon of William Jones; on December 24, 1812, the judge for Massachusetts

inclosed a copy of the evidence presented in the trial of Samuel Tully and John Dalton for piracy; the judge for Maryland on November 9, 1790, introduced Joseph Clark, who had plans for laying out a federal city.[1] Most of the judges did not write to the Department on official matters connected with their duties at all. It was not until the creation of the Department of Justice in 1870 that the marshals and attorneys ceased to report to the Department of State.

By executive order of President Cleveland, June 16, 1893, the making out of pardons for persons convicted of crimes against the laws of the United States was transferred to the Department of Justice, the order reading:

> I hereby direct that all warrants of pardons and commutations of sentences heretofore prepared at the Department of State on the requisition of the Attorney General, be prepared and recorded in the Department of Justice under the seal of that Department and countersigned by the Attorney General.
>
> GROVER CLEVELAND.
>
> Executive Mansion,
> WASHINGTON, *June 16, 1893.*[2]

This marked the termination of the Department's connection with executive pardons. Up to 1850 all the petitions for pardon had been received by the Secretary of State, and he had examined them and made recommendations which the Attorney-General

[1] The letters may be found under their respective dates in the Dept. of State MSS., Miscl. Letters.

[2] Dept. of State MSS., Miscl. Letters.

participated in, when the papers were sent to the President for his decision whether or not a warrant for pardon should issue. In 1850 the President directed that the petitions be sent to the Attorney-General and thereafter his was the chief agency in the matter. Many of the papers were still, however, sent to the Secretary of State, until the formation of the Department of Justice in 1870. Thereafter, until Mr. Cleveland's order cited above, the Department of State merely acted in an administrative capacity for the Department of Justice. Upon requisition of the Attorney-General the warrants were written in the Department of State and sent to the President for his signature, being afterwards countersigned by the Secretary of State and the great seal affixed, when the warrant was sent to the Department of Justice.[1]

The supervision of territorial affairs also fell to the Department, there being no other superintendence provided by law. The "Territory of the United States Northwest of the River Ohio" was organized by the ordinance of July 13, 1787,[2] and the governor sent reports of his proceedings to Congress, from whom he also took instructions. The form of government of the territory was continued by the Act of August 7, 1789,[3] the reports to be made to the President, who was also given the power to appoint

[1] See for the history of the Department of Justice, *The Department of Justice; its History and Functions,* by James S. Easby-Smith, Washington, 1904.

[2] 1 *Stat.,* 51 n.

[3] 1 *Stat.,* 50.

territorial officers. The method pursued is indicated by the following:

Territory of the United States
Northwest of the Ohio.

Marietta *the 15th of January, 1789.*

Sir

Six months having elapsed since the Commencement of Government in this Territory it becomes incumbent upon me to make to you any Official Communication agreeably to the Resolves of the honorable Congress. And I do myself the honour of transmitting to you by this opportunity authentic Copies of all Laws, Acts and Public Records from the 9th of July 1788 to the 1st of December inclusive.

I conceive it also my Duty to announce to you the Death of the honourable Judge Varnum, who departed this Life on the 6th Instant, much lamented by all his Friends. On the 13th he was buried with military honours & every attention & mark of Respect.

Very many of the Indian Chiefs were of the Procession & conducted themselves with all the Decency of a civilized People.

I have the honor &c.

Winthrop Sargent.

Charles Thompson, Esq.

This is indorsed: "Aug. 35th, 1789, transmitted a copy of this letter and the original papers enclosed to the President of the U. S., R. Alden."[1]

In this case it will be observed the Secretary of the Territory was not advised of the new authority. After it was known to him he directed his communications to the President, to whom he sent full reports

[1] Dept. of State MSS., Papers and Records of the Territories, I.

of all territorial acts and transactions, also asking for directions when he needed them.

VINCENNES *29th July 1790*

Sir

Mr. Joseph St. Marie a citizen of Vincennes of good Character, has made Representation to me of a Seizure upon his Property by an officer of his Catholic Majesty, and within what is understood to be the Territory of the United States—which I beg leave to lay before your Excellency.

With very great respect &c.

WINTHROP SARGENT

THE PRESIDENT OF THE UNITED STATES.[1]

All of these papers were sent to the Secretary of State and he executed the President's directions with reference to them.

In 1790[2] (Act of May 26) the Territory Southwest of the River Ohio was created under substantially the same system as the northwest territory, and the Secretary of State sent the commission to William Blount, the first governor, who reported directly to him.

Territory of the United States of
America South of the river Ohio.
at William Cobbs, *Feby. 17th 1791.*

Sir,

I had the honor to receive on the first instant a copy of the acts of the Second Session of Congress addressed to me from your office. I have now the honor to inform you that in December I appointed and commissioned the necessary officers both civil and military in the counties of Davidson,

1 Dept. of State MSS., Papers and Records of the Territories, I.

2 1 *Stat.*, 123.

Sumner and Tennessee, which form the District of Mero. The people of that district also appeared much pleased with the change of government.

The Superior court for the District of Washington is now sitting, Judges Campbell and McNairy are present. Whether Mr. Perry accepts of his appointment or not, I am uninformed.

I am sir &c,
Wm Blount.

THOMAS JEFFERSON Esquire
Secretary of State.[1]

Another letter from Blount, dated July 17, 1791, shows that the Secretary of State had instructed him with reference to the census.

I had the honor to receive your letter of the 12th March on the 19th day of May and had before recommended the Census to be taken in every County in the territory by the Captains of militia each to take the numbers within the limits of the district of his Company under the directions of the Respective Colonels, &c.

On December 9, 1791, he asked for instructions relative to claiming for the United States the lands between the lines run by the Virginia and North Carolina commissioners.[2]

When Louisiana was bought, the reports from the Territory came directly to the Secretary of State.

NEW ORLEANS *Decr 27th 1803*

Sir

Since my last I have been as busily engaged as circumstances would admit, in making such arrangements of this province as I esteemed most consonant to the intentions of

[1] Dept. of State MSS., Papers and Records of the Territories, I.
[2] *Ibid.*

the President and the expectations of the inhabitants. The difficulties I met with in this undertaking are peculiarly embarrassing on account of the neglected state in which I found the colony. The functions of government have been nearly at a stand for some time, and considerable arrears of business accumulated in every department.[1]

Governor Claiborne then gave a full account of his proceedings.

As other territories were formed the same methods prevailed. The Secretary of State, under the President, was the fountain head to whom the territorial officers were responsible and he directed their conduct. This was the status, until, by Act of March 1, 1873, it was ordered:

> That the Secretary of the Interior shall hereafter exercise all the powers and perform all the duties in relation to the Territories of the United States that are now by law or by custom exercised and performed by the Secretary of State.[2]

Similar to the territorial duties but less extensive were those which the Department exercised with reference to the island of Porto Rico, when it passed under American control in consequence of the recent war with Spain. As long as it was under military occupation by the army, the supervision was under the War Department, but the Act of April 12, 1900, providing a civil government, required that the governor should make official report of the transactions of the government to the President, through the Secretary of State, and the governor used the Department of State as a

[1] Dept. of State MSS., Governor Claiborne's Correspondence Relative to Louisiana, I.

[2] 17 *Stat.*, 484.

clearing house in his transactions with the federal government. The correspondence was not extensive, however, and the government of the island was largely independent of the general government. For greater convenience, because the territories were under general supervision of the Interior Department, President Roosevelt required that Porto Rican affairs should pass to the same quarter. The governor still continued, however, to make his reports through the Secretary of State, as the law specifically required his doing so, but the Act of July 15, 1909, provided that the report of the governor, and any other reports required from the officials of the island, should be made to such Department as the President might designate, and by an executive order of the same date as the approval of the act he designated the War Department. The connection of the Department of State with the affairs of Porto Rico has, accordingly, entirely ceased.

The management of the sales of public lands, although intimately related to territorial affairs, was under the Treasury Department, as it pertained to the revenue of the United States, but the Secretary of State was required by the Act of May 18, 1796[1] (section 7), to countersign the land patents and record them in his office, and this ministerial duty he continued to perform till the Act of April 25, 1812,[2] created the General Land Office in the Treasury Department directing that all duties which the Secre-

[1] 1 *Stat.*, 468.
[2] 2 *Stat.*, 716.

tary of State had performed with reference to the public lands be transferred to the new office and all the records also. One clerk, paid $1,400 per annum, who had, as it would appear, had charge of this part of the Department's business, was transferred at the same time.[1] The claims to land lying south of Tennessee and west of Georgia, known as the "Yazoo lands," were required by the Act of March 3, 1803, to be decided upon by boards of commissioners in the territories, and the books and papers on the dissolution of the boards were "to be transmitted to and lodged in the office of the Secretary of State."[2] Accordingly, his office became the depository of the records and the patents were issued and recorded by him. Under section 8 of the act certain lands were set aside to compensate persons for claims to lands received from the state of Georgia, provided the evidence of the claims was presented to the Secretary of State and recorded by him, the claimant paying the clerk employed by the Secretary of State to do the recording twelve and a half cents for every hundred words recorded. The manner of recording is indicated by the following extract:

Admitted to record 18 June 1803. D. B.[3]

This Indenture made the twentieth day of July, in the year of our Lord one thousand seven hundred and ninety eight between of the City of Augusta in the States of Georgia, attorney at Law, of the one part and of the same place merchant of the other. Whereas the

[1] 2 *Stat.*, 718.

[2] 2 *Stat.*, 231.

[3] Daniel Brent, Chief Clerk of the Department.

Grantees of the Georgia Mississippi Company did lately make a deed unto the said for the purposes and to the effect following, that is to say [follows the deed from the State of Georgia]

And whereas the said is a holder of script or Treasury certificates for the subscription of citizens in the said Georgia Mississippi Company's purchase to the amount of one hundred and ten thousand and seventy four acres, now this Indenture witnesseth, etc.[1]

Under section 9 of the act the Secretary of State, Secretary of the Treasury, and Attorney-General were authorized to receive offers of compromise and settlement from companies and persons claiming public lands in the territory in question and report their opinion to Congress at the next session. The evidence was received by commissioners acting for the board and a report sent to Congress, but thereafter there was no action taken until the Act of March 31, 1814,[2] provided that those who had filed the evidence should have till January 1, 1815, to file legal releases to the United States of all their claims. The Department received the releases, which are now of record.

The commissioners who were appointed under this act conceived themselves to be appurtenant to the Department, as the following letter indicates:

WASHINGTON *March 11th 1815.*

Sir:

The 8th Section of the act of Congress of March 3d 1803 (6 Vol. Laws U. S. p. 282) requiring the evidence of all

[1] Dept. of State MSS., Lands South of Tennessee, Vol. 1.
[2] 3 *Stat.*, 117.

claims under the act or pretended act of Georgia to be recorded in the Secretary of State's office, a doubt may arise, whether the deeds & documents which have been filed with us, without having been previously deposited in your office could be considered as a compliance with the provisions of the act. We would therefore suggest the propriety of the performance of some act on your part, which would give the evidences of claims filed with us the same effect that they would have if filed previously in your office. A declaration from you that the session chamber of the board of Commissioners shall be deemed a part of your office—or an authority given to a clerk in your office to take possession temporarily of the paper deposited with us, would in our opinion sufficiently answer the provisions of the law. We beg leave to call your attention to this subject, with apologies for this intrusion & are with respect

Yr obt hbe servts

Tho Swann
John Law } Comrs

The Honorable James Monroe.[1]

The certificate given by the state of Georgia surrendered to the Secretary of State was in the following form:

(Admitted to record 24 Nov. 1803 ————)

STATE OF GEORGIA. No. 383

In pursuance of an Act of the Legislature of the State aforesaid, passed at Augusta on the seventh day of January, one thousand seven hundred and ninety-five, vesting in the Subscribers a certain tract of Territory of the said State, lying on the Great Bent of the River Tennessee, as fully described in said Act: We hereby certify, That or his Assigns, is entitled to the one four hundred and twentieth part of said Territory; *Provided,* the sum of one four hundred

[1] Dept. of State MSS., Lands South of Tennessee (unbound papers).

and twentieth part of the full purchase money for said Territory is paid unto or his Agent on or before the first day of August next ensuing, when a Deed of Conveyance will be issued in lieu of this certificate, to the said Act. And in case the said or his assigns, should fail in paying the sum above specified, then this Certificate is declared by the Subscribers to be null and void. Dated at Augusta, this twenty-fifth day of February one thousand seven hundred and ninety-five.

. . . . . .

. . . . . .

Endorsed:

August 27th February 1795

Received the full consideration for the within, Say the one four hundred and twentieth part of the purchase money as within specified.

. . . . . .[1]

The releases made to the United States were regular indentures, as follows:

This indenture made this eleventh day of March in the year of our Lord, one thousand eight hundred and fifteen between and of the Town of Abingdon in the County of Washington and State of Virginia by their attorney of the first part and the United States of America of the second part.

Whereas, by an act of the Congress, &c.

Therefore, the parties of the first part conveyed all rights and claims to the parcel of land described to the United States.[2]

The Department's management of affairs which are now under the Treasury Department has not been

[1] Dept. of State MSS., Lands, Vol. II.

[2] Dept. of State MSS., Lands South of Tennessee, Vol. 9.

extensive, that Department having been organized as soon as the Department of State.

Section 4 of the Act of March 2, 1819,[1] however, provided that each vessel arriving in the United States must report to the collector of the district in which it arrived a list of all the passengers on the ship, and the collector was required to send quarterly returns of these manifests to the Secretary of State, by whom the statements of passengers thus landed were sent to Congress. This requirement was repeated by section 13 of the Act of March 3, 1855,[2] and repealed by the Act of May 7, 1874,[3] which provided that the manifests or lists of passengers should be sent to the Secretary of the Treasury. The Secretary of State had carried on direct correspondence with the collectors with reference to the lists and each year had sent them to Congress; his duties went no further.

July 4, 1864,[4] an act was approved to encourage immigration into the United States, and the first section provided that the President should appoint a commissioner of emigration, who should be subject to the direction of the Secretary of State, with a salary of $2,500 per annum, and be allowed three clerks. Under him was to be the superintendent of immigration at New York. On the day of the signature of the act, James Brown of New York was appointed the commissioner. For four years the

1 3 *Stat.*, 489.
2 10 *Stat.*, 719.
3 18 *Stat.*, 42.
4 13 *Stat.*, 385.

Bureau of Immigration continued under the State Department, but by Act of March 30, 1868[1] (Section 4), it was abolished and not revived till the Act of March 3, 1891,[2] placed it under the Treasury Department, from which it passed to the Department of Commerce and Labor when that Department was created and then to the Department of Labor.

The Act of March 2, 1799, required that the Secretary of State lay before Congress, within ten days after the commencement of each ordinary session, an annual statement containing an abstract of all returns received by him from collectors of customs at the various ports and from American agents abroad concerning impressments of American seamen. This followed the Act of May 28, 1796, requiring the President to appoint an agent to reside in Great Britain and one to reside elsewhere abroad to report on impressments of American seamen and afford them relief; and American ships were ordered to report impressments to collectors on their arrival in this country and to American consular officers abroad, and to send duplicates of their lists to the Secretary of State, the collectors being required to send lists every three months.[3] The Department's duties were only supervisory; but it sent the lists annually up to the War of 1812, when this part of its functions ceased.

The Department had the duty of publishing the Biennial Register or Blue Book. It was first author-

[1] 15 *Stat.*, 58.
[2] 26 *Stat.*, 1084.
[3] 1 *Stat.*, 477, 731.

ized by a joint resolution of the Senate and House, approved April 27, 1816,[1] requiring that once in two years a register, containing correct lists of all officers and agents, civil, military, and naval, in the service of the United States, made up to the last day of September of each year in which a new Congress is to assemble, be compiled and printed under the direction of the Secretary of State. The heads of other departments were ordered to lodge their lists with him in due season, and the Secretary of the Navy to include the names, force, and condition of all ships and vessels belonging to the United States. Five hundred copies of the Register were to be printed, and on the first Monday in January in each year when a new Congress assembled, the copies were to be distributed among the higher officers of the government, and twenty-five copies lodged in the Library of the United States.

The publication continued on this system until it was modified by the joint resolution, approved July 14, 1832,[2] which required the inclusion of a list of all printers of the laws of the United States, with the compensation allowed each one, and of all printers in any way employed by Congress, by any department or officer of the government, with the compensation and all allowances made by the Postmaster-General within the same period—September 30, 1831, to September 30, 1833—to each contractor on contracts for carrying the mails; a list of the president, cashiers,

[1] 3 *Stat.*, 342.
[2] 4 *Stat.*, 608.

and directors of the Bank of the United States and its branches. In collecting the information the Department sent a circular to those whose duty it was to furnish it. It merely assembled the data and published it, but the labor involved became considerable as the force of the government grew larger. By Act of February 20, 1861, the duty was transferred to the Department of the Interior.[1]

Another important publication which the Department initiated recently passed to the jurisdiction of the Department of Commerce and Labor and remained with the Department of Commerce when that Department was created separately in 1913. This is the series of volumes known as *Commercial Relations of the United States,* published each year, composed of the annual reports of American consuls on trade and commerce. As a regular publication they date back to 1856, being authorized by the Act of August 18,[2] but in the same year, before the passage of that act, appeared four large volumes entitled "Report on the Commercial Relations of the United States with all Foreign Nations; Edmund Flagg, Superintendent; Prepared and Printed under the Direction of the Secretary of State in Accordance with Resolutions of the Senate and House of Representatives." The resolutions had voted $10,000 to defray the expense.

In his introduction, Mr. Flagg, "Superintendent of the Statistical Office," stated:

> Three reports on "the privileges and restrictions of the

[1] 12 *Stat.*, 141.
[2] 11 *Stat.*, 60.

commercial intercourse of the United States with foreign nations'' similar to the present, have appeared since the establishment of this government. The first was communicated to the House of Representatives, December 16, 1793, by Mr. Secretary Jefferson, in conformity to ''instructions'' of that body, February 14, 1791, and embraces what is equivalent to some eight or ten octavo pages. The second was communicated to the Senate by Mr. Secretary Forsyth, December 18, 1839, in compliance with a resolution of that body of December 19, 1838, and comprises seventy-four octavo pages. The third and last report was communicated to the House of Representatives by Mr. Secretary Webster, March 29, 1842, in accordance with resolutions of that body of September 3, 1841, and January 31, 1842, and forms a document of nearly six hundred pages.

In addition to these reports, three other commercial compilations issued by the government should be named—to wit:—the ''Commercial Digest,'' transmitted to the Senate by President Monroe, December 7, 1819, conformably to a resolution of that body, March 3, 1817; the ''Digest of Commercial Regulations,'' showing the ''changes'' in such regulations subsequent to the Digest of 1819, prepared by Mr. Secretary Adams, in accordance with a resolution of the House, January 21, 1823, and communicated to that body January 30, 1824; and last, the ''Digest of Commercial Regulations'' prepared and printed, in three volumes, under the direction of the Secretary of State, in compliance with a resolution of the House, March 3, 1831; the first volume being completed for transmission to that body, May 28, 1833, and the second and third volume in 1836. But in neither of these works last named, was it required to communicate specifically ''the privileges and restrictions of the commercial intercourse of the United States with foreign nations,'' by which requirement the former were characterized.

The four volumes of the report were divided into

three parts—"Commercial Digests," "Comparative Tariffs" and "Consular Relations."

Concerning his interest in their subject, John Quincy Adams wrote, on June 15, 1820:

> Another subject upon which I wish to provide for the future is the collection of commercial information. Under a resolution of the Senate, a volume containing a digest of commercial regulations of foreign nations was printed last year. I have ordered one of these volumes to be sent to every Minister and Consul of the United States abroad, with the request to each of them to examine the book, and to collect and transmit to the Department any further information relating to the subject that he can obtain respecting the country where he is stationed. I this day desired Mr. Bailey to keep a memorandum book of reference to all the communications which may be received on this subject, and a copy of the Digest, interleaved with blank leaves, in which all changes by new ordinances of foreign countries shall be minuted.[1]

The title page of the first volume of *Commercial Relations* (1857) read: "Report of the Secretary of State, Transmitting a Statement from the Superintendent of Statistics of the Commercial Relations of the United States with Foreign Nations, for the Year ending September 30, 1856." The plan and purpose of the publication have not varied materially since its initiation. In 1903 it was transferred to the Department of Commerce and Labor, and it is now issued by the Department of Commerce.

The usefulness of the volumes of *Commercial Relations* and of special trade reports from consuls

[1] *J. Q. Adams' Diary*, V, 152.

printed from time to time led the Department to undertake a regular issue of consular reports to be printed at first every month and then also every day.

The introduction, dated October, 1880, to the first of the regular issues of the "Consular Reports" contains a statement of the origin of the system of publication:

Previous to the last session of Congress, with the exception of short abstracts given, from time to time, to the press, the only means of giving publicity to consular reports was through the annual volume of Commercial Relations. The delay incident hereto neutralized, to a large degree, the good which would have resulted from the immediate publication of many of these communications, while a large number of valuable reports were left unpublished altogether, and many others necessarily curtailed, in order that the annual volume might be kept within reasonable limits.

Appreciating the good results of the praiseworthy efforts of our consuls for the enlargement of our commercial relations in their several districts, and desirous of giving the country the fullest and most direct benefits of their labors, Congress, upon representations made thereto by this Department, at its recent session, made provision "for printing and distributing more frequently the publications by the Department of State of the consular and other reports."

This action was taken in response to the wishes of the leading commercial communities of the United States, as expressed through the chambers of commerce of the principal cities, which bore testimony to the great value of these reports, and the advantages which would accrue from their more frequent publication.

As a necessary sequence to the foregoing action of Congress, a circular, under date of July 1, 1880, was issued by this Department to the consuls-general, consuls, and commercial

and consular agents of the United States. The nature of this circular, and the scope of the proposed publications, of which this is the initial number, will be understood from the following extracts:

. . . . . .

You are therefore requested to prepare and forward to this Department reports upon all subjects which may be calculated to advance the commercial and industrial interests of the United States, bearing in mind, however, while giving yourselves the broadest scope for the accomplishment of the work herein assigned you, that your principal efforts must be directed to the introduction of the American trade into, and the enlargement thereof in, your districts.

. . . . . .

The annual volume of Commercial Relations will be published as heretofore; you will continue to prepare your annual reports therefor as usual, but the publication of these special communications will enable you to dispense in the former with all extraneous matter, treating therein of subjects pertaining only to what properly belongs to annual reports, as laid down in consular regulations.

. . . . . .

I am etc.,

WM. M. EVARTS.

The amount appropriated by Congress was $20,000. Previous to this action an attempt had been made by the Department looking to the same end. In July, 1877, a circular was sent to the consuls in Mexico, Central and South America, in part as follows:

It is believed that the period has now arrived when it would be wise for all the nations of this continent to consider more carefully than heretofore how they may best enlarge

their trade with each other. Their geographical position and the resemblance between their political institutions facilitate the cultivation of such commerce.

The United States are in a condition to supply cheaply and easily many products and manufactured articles, suitable to their wants, to all or nearly all of the Spanish American Republics, ... receiving in return natural products, which can be utilized here.

. . . . . .

Apart from questions of merely commercial or pecuniary advantage, the development of such trade would have also a beneficial influence upon the political condition of the republics of this continent.

. . . . . .

In view of these considerations, it is desired by the Department that its Diplomatic and Consular officers should devote attention to the question of methods by which trade with the United States can be most judiciously fostered.

Without seeking to interfere with any commercial operations or enterprises that may now be in existence, it is nevertheless deemed highly probable that you may be able, by examination and inquiry, to point out branches of trade with which the United States may properly and usefully share. You are instructed, therefore, to make such examination at your convenience, and to advise the Department, when suitable occasions shall offer, as to the demand for different kinds of manufactured articles now in , their nature and prices, and whether they are of the character which it is probable the industry of the United States can supply.

. . . . . .

The inquiry here suggested should not be hastily made. . . . . It is rather the purpose of the Department that it should be continuous, and that you may from time to time communicate to the Government such information as you

may from time to time acquire in this direction, in order that it may be laid before Congress and the general public.

I am, etc.,

WM. M. EVARTS.

This circular was supplemented in August of the same year by a similar one to the consuls in Europe. The replies were printed and distributed.

Both of these circulars were followed by one dated April 11, 1878, which was, perhaps, the most important effort thus far made by the Department to utilize the consular corps as an instrument for gathering important statistics. It was known as the "Labor Circular," and was sent to the consular officers in Great Britain, France, Germany, Belgium, Italy, Spain, the Netherlands, Sweden and Norway, and Denmark. It read as follows:

GENTLEMEN: With reference to the circular addressed to you in August, 1877, in respect to the trade of the United States with foreign countries, it is now deemed desirable that you should make inquiries and report in regard to the following points, viz:

1st The rate of wages usually paid to laborers of every class, but with more especial reference to agricultural laborers, mechanical laborers, and those upon public works and railways.

2d The cost of living to the laboring class, or the prices paid for what may be termed the necessaries of life.

3d So far as practicable, a comparison of the present rates with those prevailing during the past five years, both as to wages and cost of living.

4th Such information as may be obtainable touching the present state of trade, whether prosperous or otherwise; the

amount and character of paper money, if any, as circulation; and the amount and character of coin, with the relation borne by paper and coin to each other.

5th and lastly, such information as may be obtainable as to the business habits and systems of your districts.

It is desired that the information which may come to your knowledge on the foregoing points should be embraced in a report to the Department, to be made as soon as practicable.

I am, etc.,

F. W. Seward,

Assistant Secretary.

The result of this circular was the publication, by order of Congress, the following year, of the volume known as *Labor in Europe,* the precursor of the more exhaustive reports on the same subject printed in three volumes in 1884—this being probably the most ambitious publication of consular reports ever made. Several other special consular publications are hardly less important, however; notably, the reports on *Emigration and Immigration,* 1887; the volume *Taxation in Europe* (1887), an attempt to show the methods and rates of taxation throughout the whole of Europe and in British India; and *Cattle and Dairy Farming* (1888), in two large volumes, profusely illustrated, showing the breeds of cattle and methods of cattle breeding throughout the world. The monthly issue of consular reports begun in October, 1880, continued regularly without reference to the special publications issued at irregular intervals; but in 1898, upon the initiation of the chief of the Bureau of Statistics, Frederick Emory, was begun a daily issue of what were called Advance Sheets of Consular Reports,

being merely the issue at once of reports which were later gathered together and printed in the monthly pamphlet. When the Bureau of Foreign Commerce was transferred from the Department of State to the Department of Commerce and Labor in 1903, the former ceased to be the publisher of the consular reports, although it remains the medium through which the reports are called for from the consuls and examines them before they are sent to the Department of Commerce. The title of the daily issue of consular reports was changed by the Department of Commerce and Labor in 1905 to Daily Consular Trade Reports, and some features were added to the publication. March 1, 1910, it was abolished and a weekly issue substituted; but in July, 1910, the daily issue was resumed. The monthly issue was abandoned July 1, 1910, as the law required.

In time of war the Department has certain duties which are for the most part an expansion of its regular duties; but one which it formerly performed and which it will not in all probability ever be called upon to perform again may be considered here. It related to the issuing of letters of marque and reprisal to private armed vessels commissioned to cruise against the enemies of the United States. The issuance of such letters was under Article I, section 8 of the Constitution a power of Congress; but when a conflict arose with France in 1798, by Act of July 9,[1] Congress authorized the President to grant to owners of privateers special commissions under the seal of

[1] 1 *Stat.*, 579.

the United States, with license for capturing armed French vessels, and to prescribe such rules as seemed proper, the commissions being revokable by him. Each applicant for a commission was required to deliver or send to the Secretary of State a description of his vessel, the names of her owners, and officers, and the number of her crew. Bond in the sum of $7,000 was required to observe the laws, treaties and regulations, and if the vessel was manned by more than one hundred and fifty men the amount was doubled. Only a few letters of marque were issued by the Secretary of State for this brief war, the form being precisely the same as that used in the War of 1812.

The same rules were observed in reference to issuing letters of marque in the conflict with Tripoli in 1802, but the law was more liberal in its terms[1] and did not require any report from the privateers to the Secretary of State.

The War of 1812 caused the enactment of an elaborate privateering law. War was declared by the Act of June 18, 1812, and it conferred upon the President in general terms the power to issue commissions to private armed vessels "in such form as he shall think proper";[2] but on June 26, 1812, a regular privateering law was approved, which required a report to the Secretary of State of tenor similar to that prescribed in the Act of July 9, 1798. The applications for commissions were made to the

[1] 2 *Stat.*, 130.
[2] 2 *Stat.*, 755.

collectors of customs of the various ports and sent by them to the Department, or in many cases were sent direct to the Secretary of State. The following is an example:

To the Hon. James Monroe Secretary of State for the United States of America—

The Petition of Frederick Jenkins, Rensselaer Havens and Daniel Sullivan of the City of New York and Joseph Skinner of New London State of Connecticut Humbly Sheweth That your Petitioners Citizens of the United States and owners of the Brig or Vessel called the James Monroe of New York burden 323-38/95 Tons or thereabouts, Mounting Five carriage Guns (carrying Small Arms) navigated by Fifty Men whereof said Joseph Skinner is Master or Commander, having equipped furnished and provided said Brig as a Lettre of Marque humbly solicit that a commission or License may be granted to them for said Brig to cruize against the shipping and property of the Enemies of the United States during the present War.

And your Petitioners &c

New York
18 Oct 1813

Fred Jenkins
Rensselaer Havens
D. Sullivan
Joseph Skinner

D. Williams

The regulations were issued through the Department but were drawn up by the President, in the case of this war, in James Madison's own hand. The draft is as follows:

To Capt: Commander of the private armed called the

INSTRUCTIONS

For the private armed vessels of the U. States

1. The tenor of your Commission and of the Act of

Congress entitled "An Act &c. &c.," a copy of which is hereto annexed, will be kept constantly in your view. By the high seas referred to in your commission, you will understand generally, to extend to low water mark; But with the exception of the space within one league or three miles of the shore of countries at peace both with G. B. and with the U. S. you may, nevertheless execute your commission within that distance of the shore of a nation at war with G. B. and even on the waters within the jurisdiction of such nation, if permitted so to do.

2. You are to pay the strictest regard to the rights of neutral powers, and the usages of Civilized nations; and in all your proceedings towards neutral vessels, you are to give them as little molestation or interruption as will consist with the right of ascertaining their neutral character, and of detaining and bringing them in for regular adjudication in the proper cases. You are particularly to avoid even the appearance of using force or seduction with a view to deprive such vessels of their crews, or of their passengers, other than persons in the military service of the Enemy.

3. Towards Enemy vessels and their crews, you are to proceed, in exercising the rights of war, with all the justice and humanity which characterize the nation of which you are members.

4. The Master and one or more of the principal persons belonging to captured vessels, are to be sent, as soon after the capture as may be, to the Judge or Judges of the proper court in the U. S. to be examined upon oath, touching the interest or property of the captured vessel and her lading; and at the same time are to be delivered to the Judge or Judges, all passes, Charger-parties, bills of lading, invoices, letters and other documents and writings found on board; the said papers to be proved by the affidavit of the Commander of the capturing vessel or some other person present at the capture, to be produced as they were received without fraud, addition, subduction or embezzlement.

This is endorsed: "Instructions for private armed vessels, drawn up by President Madison, Recorded, pages 11 and 12, Vol. 'Letters of Marque,' etc."[1]

The Department received at stated periods from the collectors of customs abstracts of commissions granted to privateers, stating to whom they were issued and when, the name of the vessel and the commander and lieutenant, the vessel's burden, number of crew, number and kind of arms and names of sureties on the bond. The form of commission was as follows:

James Madison, President of the United States of America

To all who shall see these Presents,

Greeting:

Be it known, That in pursuance of an Act of Congress, passed on the 26th day of June one thousand eight hundred and twelve, I have commissioned, and by these presents do commission, the private armed five handed boat of burden of about two tons, or thereabouts, owned by Elisha Pape, Esqr., Shedrach Freeman, Nathan Nye 3d, James Freeman, Leavin Pape and Charles Nye, all of Sandwich aforesaid mounting no carriage guns, and navigated by twelve men, hereby authorizing Nathan Nye 3d, Captain, and William Drody Lieutenant of the said boat and other officers and crew thereof to subdue, sieze and take any armed or unarmed British vessel, public or private, which shall be found within the jurisdictional limits of the United States or elsewhere on the high seas, or within the waters of the British dominions, and such captured vessel, with her apparel, guns and appurtenances, and the goods or effects which shall be found on board the same, together with all the British persons and others who shall be found acting on board, to

[1] Letters of Marque, Dept. of State MSS., War of 1812.

bring within some port of the United States, and also to retake any vessels, goods and effects of the people of the United States, which may have been captured by any British armed vessel, in order that proceedings may be had concerning such capture or recapture in due form of law, and as to right and justice shall appertain. The said Nathan Nye 3d is further authorized to detain, seize and take all vessels and effects to whomsoever belonging which shall be liable thereto according to the law of Nations and the rights of the United States a power at war, and to bring the same within some port of the United States in order that due proceedings may be had thereon. This commission to continue in force during the pleasure of the President of the United States for the time being.

Given under my hand and the seal of the United States of America at the city of Washington, the sixth day of December in the year of our Lord, one thousand eight hundred and thirteen and of the Independence of the States the thirty-eighth.

JAMES MADISON

By the President

(Seal) Jas. MONROE, Secretary of State

Countersigned

Wm. Otis. Coll

The privateering against Algiers under the Act of March 3, 1815,[1] was on the same basis as that of 1802 against Tripoli. There appears to have been no participation by the Department of State in the issuance of letters of marque during the Mexican War, and in 1863 the business was transferred to the Navy Department, where, in the improbable event of its being revived on some future occasion, it would be conducted.

[1] 3 *Stat.*, 230.

CHAPTER VII

OCCASIONAL DUTIES OF THE DEPARTMENT

PERHAPS the most important of the occasional duties of the Department of State is that which involves its agency in recording the result of the quadrennial elections held in the several states for the offices of President and Vice-President of the United States. Section 1 of Article II of the Constitution provided that the electors should meet in the several states, and, having voted for a President and Vice-President, should make a list of the persons voted for, which they must sign and certify to and transmit, sealed, to the seat of government directed to the President of the Senate. The twelfth amendment to the Constitution, adopted in 1804, looked towards an improvement in the method of voting for a President and Vice-President, but did not disturb the original provision for notifying the result. There is not, therefore, any constitutional requirement for participation of the executive branch of the government in this function; but the Act of March 1, 1792,[1] relative to the election of a President and Vice-President, provided for certain contingent duties on the part of the Secretary of State of great importance. Section 2 prescribed that the electors should meet in

[1] 1 *Stat.*, 239.

their respective states on the first Wednesday in December after their election, and sign three certificates of the votes given by them and seal up the same, "and send one copy by messenger to the President of the Senate; forward another to him by mail and lodge the third with the judge of the district in which the electors assembled."

Section 4 said:

> That if a list of votes from any State shall not have been received at the seat of government, on the said first Wednesday in January, that then the Secretary of State shall send a special messenger to the district judge in whose custody such list shall have been lodged, who shall forthwith transmit the same to the seat of government.

And section 6 said:

> That, in case there shall be no President of the Senate at the seat of government on the arrival of the persons intrusted with the lists of the votes of the electors, then such persons shall deliver the lists of votes in their custody into the office of the Secretary of State, to be safely kept and delivered over as soon as may be, to the President of the Senate.

This portion of the Act was confirmed by the Act of March 26, 1804,[1] and the only change made by the Act of January 23, 1845,[2] was to change the date of meetings of the electors.

A careful search of the records of the Department of State fails to show that the electoral vote has ever been delivered to the Secretary of State. If it ever should be, his duty would be simply to act as its

[1] 2 *Stat.*, 295.
[2] 5 *Stat.*, 721.

custodian, until the opportunity should come when it could be safely delivered to the President of the Senate.

Section 4 of the act cited above, which became section 141 of the Revised Statutes, was amended by the Act of October 19, 1888,[1] to read:

> Whenever a certificate of votes from any State has not been received at the seat of government on the fourth Monday of the month of January in which their meeting shall have been held, the Secretary of State shall send a special messenger to the district judge, etc.

Special messengers were occasionally sent under the original law and have been sent under that now in force, there being no difference in the method prescribed by both.

The following example of the sending of a messenger will serve as an example:

VICE-PRESIDENT'S CHAMBER
WASHINGTON, D. C., *Jan. 29, 1889.*

The Honorable
Thomas F. Bayard,
Secretary of State,
Washington, D. C.

Sir:

Referring to the provisions of an Act supplementary to the Act approved Feb. 3, 1887, entitled "an Act to fix the day for the meeting of the Electors of President and Vice-President, and to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon," approved Oct. 19, 1888, I have the honor to inform you that the Certificate and List of

[1] 25 *Stat.*, 613.

Votes for President and Vice-President of the United States have not been received from the State of Florida.

Very respectfully yours,

JOHN J. INGALLS

President of the Senate.[1]

DEPARTMENT OF STATE,
WASHINGTON, D. C., *January 29, 1889.*

Henry L. Bryan, Esq.,
Messenger to the State of Florida.

Sir:—

Having been informed by the President *pro tempore* of the Senate of the United States, that the certificates and list of votes for President and Vice-President of the United States have not been received from the State of Florida, it is my duty under the Act of Congress, approved October 19, 1888, entitled "An Act Supplementary to the Act Approved February 3rd Eighteen Hundred and Eighty-Seven entitled 'An Act to fix the Day for the Meeting of the Electors of President and Vice-President and the decision of questions arising thereon' " to send a special messenger to that State to obtain from the Judge of the United States District Court in whose custody it is, by Act of Congress, required to be deposited, the certificate of the vote of that State: I therefore under Section 141 of the Revised Statutes, as amended by the above quoted Act appoint you special messenger for that purpose.

You are, therefore, instructed to proceed immediately, and by the quickest possible route, to such place as the District Judge may be found in whose custody the certificate of votes from the State of Florida has been lodged, and, there exhibiting to him this instruction, you will request that he forthwith transmit that certificate to the seat of Government, offering at the same time your services as a messenger

[1] Dept. of State MSS., Miscl. Letters.

to bring the certificate hither. You will return immediately and by the most speedy route to the seat of Government, reporting without loss of time to me at this Department and delivering the said certificate of votes to the President *pro tempore* of the Senate of the United States. You will constantly keep this Department advised by telegraph of your movements and where telegraphic despatches can reach you, in order that should any change of plan become necessary you may be informed thereof without delay.

In witness whereof I have hereunto set my hand and caused the seal of the Department of State to be affixed this 29th day of January A. D. 1889.

T. F. Bayard.[1]

The messenger, it should be remarked, reported to the Department of State, but he delivered the electoral vote to the President of the Senate.

The Act of February 3, 1887,[2] to fix the day for the meeting of electors of President and Vice-President, gave the Department of State specific and important duties with reference, not to the votes for President and Vice-President, but to the election of electors to choose the President and Vice-President. Section 3 said:

That it shall be the duty of the Executive of each State, as soon as practicable after the conclusion of the appointment of electors in such State, by the final ascertainment under and in pursuance of the laws of such State providing for such ascertainment, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or

[1] Dept. of State MSS., Domestic Letters.

[2] 24 *Stat.*, 373.

other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast . . . . and if there shall have been any final determination in a State of a controversy or contest as provided for in section two of this act, it shall be the duty of the Executive of such State, as soon as practicable after such determination, to communicate, under the seal of the State, to the Secretary of State of the United States, a certificate of such determination, in form and manner as the same shall have been made; and the Secretary of State of the United States, as soon as practicable after the receipt at the State Department of each of the certificates hereinbefore directed to be transmitted to the Secretary of State, shall publish, in such public newspapers as he shall designate, such certificates in full; and at the first meeting of Congress thereafter he shall transmit to the two Houses of Congress copies in full of each and every such certificate so received theretofore at the State Department.

Following this requirement the Secretary of State brings the provisions of the act to the attention of the several Governors of the states soon after the Presidential election by sending to each the following circular letter:

DEPARTMENT OF STATE,
WASHINGTON, *December , 19 .*

Sir:

With immediate regard to the election of Presidential and Vice-Presidential electors just concluded, I have the honor to enclose herewith a copy of the Act of Congress approved February 3, 1887, relating to the duty of the Executives of the several States in certifying to the Secretary of State of the United States the appointment of such electors, and a copy of the Act supplementary thereto, approved October 19, 1888.

Respectfully requesting that I be furnished with *four* copies of the certificate required by section 3 of the accompanying Act, for the greater convenience of the Department,

I have the honor to be, Sir,

Your obedient servant,

His Excellency
The Governor of

The returns having been received are acknowledged:

DEPARTMENT OF STATE,
WASHINGTON, , *19* .

Sir:

I have the honor to acknowledge the receipt of your certificate of the final ascertainment of the electors for President and Vice-President, appointed for the State of , at the election held on the 3d day of November, 19 , said certificate being under the seal of the State of , and dated , 19 .

I have the honor to be, Sir,

Your obedient servant,

His Excellency
The Governor of

They are then published in a newspaper in Washington, selected by the Secretary of State:

DEPARTMENT OF STATE,
WASHINGTON, , *19* .

To the Washington ————

Gentlemen:

In pursuance of the provisions of the Act of Congress approved February 3, 1887, I transmit herewith for publication in your newspaper a certified copy of the final ascertainment of the electors for President and Vice-President, appointed in the State of , at the election held

therein on the day of November, 19 , as certified to me by the Governor thereof.

I am, Gentlemen,
Your obedient servant,
(For the Secretary of State)
Chief Clerk.

At the same time copies of the returns are sent to the Speaker of the House of Representatives and the President of the Senate, the same form of letter being used in each case:

DEPARTMENT OF STATE,
WASHINGTON, , *190* .

To the Honorable
Speaker of the House of Representatives.
Sir:

I have the honor to transmit herewith, in pursuance of the provisions of the Act of Congress approved February 3, 1887, and of the Act supplementary thereto, approved October 19, 1888, an authentic copy of the certificate of the final ascertainment of electors for President and Vice-President, appointed in the State of , at the election held therein on the day of November, 19 , as transmitted to me by the Governor of said State.

I have the honor to be, Sir,
Your obedient servant,

The form of certification of the copies is as follows:

UNITED STATES OF AMERICA.
DEPARTMENT OF STATE.

To all to whom these presents shall come, Greeting:

In accordance with the provisions of the Act of Congress approved February 3, 1887, I certify that the following is a true copy of the certificate of the final ascertainment of the electors for President and Vice-President, appointed in the

State of , at the election held therein on the day of November, 19 , as received by me from the Governor of the said State.

IN TESTIMONY WHEREOF, I,
Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

DONE AT THE CITY OF WASHINGTON, this day of A. D. 19 , and of the Independence of the United States of America the one hundred and .

Some of the contingent duties imposed upon the Secretary of State by law with reference to the Presidential office he has never been called upon to exercise. Section 10 of the Act of March 1, 1792, provided:

> That whenever the offices of President and Vice-President shall both become vacant, the Secretary of State shall forthwith cause a notification thereof to be made to the Executive of every State, and shall also cause the same to be published in, at least, one of the newspapers printed in each State, specifying that electors of the President of the United States shall be appointed or chosen, in the several States, within thirty-four days preceding the first Wednesday in December, then next ensuing.

But there must be two months' interval between the date of the notification and the election.

There has never been a vacancy in the office of President through the death of both the President and Vice-President.

By the Act of January 19, 1886,[1] the succession was vested, in case of death, removal, resignation or

[1] 24 *Stat.*, 1.

inability of both President and Vice-President, in the members of the Cabinet successively, beginning with the Secretary of State, but no Secretary of State has yet been called upon to perform the duties of President.

The Act of 1792 not only provided for the succession to the Presidency, but also for the means by which one elected to that office or to the Vice-Presidency might decline to serve and by which the holder of either office might resign. In the eleventh section it said:[1]

> That the only evidence of a refusal to accept or of a resignation of, the office of President or Vice-President, shall be an instrument in writing declaring the same, and subscribed by the person refusing to accept, or resigning, as the case may be, and delivered into the office of the Secretary of State.

The act has only been invoked once—when John C. Calhoun resigned as Vice-President in 1832. He wrote Edward Livingston, the Secretary of State, the following letter (inadvertently giving the initial of his Christian name incorrectly):

Columbia, S. Carolina,
28th Decr., 1832.

Sir,

Having concluded to accept of a seat in the Senate, to which I have been elected by the Legislature of this State, I herewith resign the office of Vice-President of the United States.

Very respectfully
Your ob sert
J. C. Calhoun.

Hon. H. Livingston.[2]

[1] 1 *Stat.*, 241.

[2] Dept. of State MSS., Miscl. Letters.

The Secretary of State did not acknowledge the receipt of the letter, an omission doubtless due to oversight on his part. A mere acknowledgment would have exhausted his authority and duty. He could not accept or refuse the resignation, the Vice-President not being within his authority in any way. The omission to acknowledge the receipt of the resignation brought forth the following letter from Calhoun:

Brown's Hotel,
4th Jany. 1833.

Sir,

I forwarded to your Department on the 27th Decr. from Columbia, So. Carolina, my resignation of the office of Vice-President of the United States, in conformity to the provisions of the Act of Congress in such cases. I wish you to inform me by the bearer whether it has been received.

Yours respectfully,
Yours &c
J. C. Calhoun.

Hon. Ed. Livingston.[1]

The acknowledgment was doubtless sent by the bearer, but it is not of record in the Department.

Not less important than the duties of the Department with reference to the Presidency are the duties which it must perform whenever an amendment is proposed to the Constitution of the United States.

The first twelve amendments were proposed on June 8, 1789, by James Madison, in the House of Representatives,[2] the Senate concurring September

[1] Dept. of State MSS., Miscl. Letters.
[2] *Annals of Cong.*, I, 424.

25, on which day the two houses directed that the President transmit them to the executives of the several states which had ratified the Constitution, and to North Carolina and Rhode Island, which had not yet done so.[1] The Department of State had been established for ten days when the amendments were proposed; but the plan for their submission to the states had been completed before the act creating the Department had been considered, so no agency of the Department was provided for. However, the second section of the organic act of the Department provided that whenever a bill, order, resolution, or vote of the Senate and House should be approved by the President, he should send it to the Secretary of State. If it was passed by the Senate and House notwithstanding the President's disapproval, it should be sent to the Secretary of State by the President of the Senate or Speaker of the House.

The proposed constitutional amendments were independent of the President's approval or disapproval, but they seemed to fall within the general purpose of an act which was, moreover, entitled, "An Act to provide for the safe keeping of the Acts, Records and Seal, of the United States." The President, also, had already begun the practice of conducting such official correspondence as did not pertain to financial or military affairs, through the Department of State, and it naturally fell about that the proposed amendments were sent to the Governors of the states through the State Department and that

[1] *Annals of Cong.*, I, 87, 88.

the replies were sent to that Department by the President. The first ratification was that of Maryland, transmitted to the President by the Governor with the following letter:

ANNAPOLIS, *January 15th, 1790.*

Sir,

I have the honor to enclose a copy of an Act of the Legislature of Maryland, to ratify certain Articles in addition to and amendment of the Constitution of the United States of America proposed by Congress to the Legislatures of the several States.

I have the honor to be
With the highest respect, Sir,
Your most Obdt. servant,
J. E. HOWARD.

His Excellency
The President of the United States.

This letter was endorsed in the Department:

Transmitted to this office, by order of the President of the United States, Jany. 25th 1790.[1]

Most of the ratifications appear to have been sent to the Department from the President without accompanying note; but Vermont's act was forwarded with the following:

UNITED STATES, *January 18th, 1792.*

T. Lear has the honor to transmit to the Secretary of State, an exemplified Copy of an Act of the Legislature of Vermont (which has been received by the President of the United States) ratifying the Articles of Amendment proposed by

[1] *Documentary History of the Constitution,* II, 330.

Congress to the Constitution of the United States; and also a letter which accompanied said ratification.

TOBIAS LEAR,
Secretary to the President of the United States.[1]

The President communicated to Congress the fact of ratification by a separate message for each state ratifying, the first being as follows:

UNITED STATES, *January 25, 1796.*

Gentlemen of the Senate and House of Representatives:

I have received from His Excellency, John E. Howard, Governor of the State of Maryland, an Act of the legislature of Maryland to ratify certain articles in addition to and amendment of the Constitution of the United States of America, proposed by Congress to the legislatures of the several States, and have directed my secretary to lay a copy of the same before you, together with the copy of a letter, accompanying the above Act, from his Excellency the Governor of Maryland to the President of the United States.

The originals will be deposited in the office of the Secretary of State.

G. WASHINGTON.[2]

This form was observed substantially in all the messages announcing ratification of these amendments.

The second proposal by Congress of an amendment to the Constitution—that of 1793—was communicated to the governors of the states directly by the Secretary of State, there being no law prescribing otherwise, and the ratifications or rejections were addressed to him.

1 *Documentary History of the Constitution,* II, 373.

2 *Messages and Papers of the Presidents,* I, 71.

Such states as failed to inform him of their action were requested to do so.

The Governor of South Carolina wrote:

Sir,

In answer to your favor respecting the proceedings of our Legislature on the recommendation of Congress relative to the suability of a State, I have the honour to inform you that our Legislature have not yet decided on the same, but that I intend again to submit it to their consideration at their ensuing session in November.

With respect, I am, Sir,
Your most obedient
CHARLES PINCKNEY.

October 10: 1797.

To the Honourable Timothy Pickering.[1] IN CHARLESTON.

On November 11, 1797, the Governor of Kentucky informed the Secretary of State of the ratification by that state, and the Secretary reported to the President that three-fourths of the states had now adopted the amendment. The President thereupon sent the report of the Secretary to Congress, January 8, 1798, with the following message:

UNITED STATES,
January 8, 1798.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

I have now an opportunity of transmitting to Congress a report of the Secretary of State, with a copy of an act of the legislature of the State of Kentucky consenting to the ratification of the amendment of the Constitution of the United States proposed by Congress in their resolution of the 2d

[1] *Documentary History of the Constitution,* II, 405.

day of December, 1793, relative to the suability of States. This amendment, having been adopted by three-fourths of the several States, may now be declared to be a part of the Constitution of the United States.

JOHN ADAMS.[1]

This was the only formal information conveyed on the subject, but the amendment was printed in the next edition of the federal laws.

The next amendment, that proposed by Congress in 1803, was sent to the states and the ratifications were received in the same manner as the amendment of 1794; but when three-fourths of the states had ratified it the Secretary of State himself, under date of September 25, 1804, sent a circular to the Governors of the several states informing them of the ratification.[2]

Neither the President nor he communicated the result to Congress.

The next amendment, proposed in 1809, was also sent to the states by the Secretary of State and reports of their action were received by him. It was not ratified by three-fourths of the states, and no information of its rejection was formally conveyed to Congress or the states.

In 1818, April 20,[3] Congress gave direct legislative sanction to the agency of proposed constitutional amendments, by providing simply that when official notice should be received at the Department of any amendment to the Constitution having been adopted

1 *Messages and Papers of the Presidents*, I, 260.
2 *Documentary History of the Constitution*, II, 451.
3 3 *Stat.*, 439.

by three-fourths of the states, the Secretary of State should forthwith cause the amendment to be published, enumerating the ratifying states, in the newspapers authorized to publish the laws, and it should then become effective for all purposes; and this provision became section 205 of the Revised Statutes of the United States.

The first amendment offered after this act was that of 1860, which followed the same course as the amendment proposed in 1809, being also rejected.

When the amendment of 1864 was submitted to the states, several Governors transmitted their ratifications to the President by mistake, but they were promptly transferred by him to the Department of State. The amendment was simply published when it had been ratified by three-fourths of the states.

After the first amendment proposed in 1866 had been acted upon by the states, Secretary of State Seward issued the following proclamation:

WILLIAM H. SEWARD,

SECRETARY OF STATE OF THE UNITED STATES,

To all to whom these presents may come greeting:

Whereas the Congress of the United States on or about the sixteenth of June, in the year one thousand eight hundred and sixty-six passed a resolution which is in the words and figures following, to wit:

[Follows the joint resolution proposing the amendments.]

And whereas by the second section of the Act of Congress, approved the twentieth of April, one thousand eight hundred and eighteen, entitled "An Act to provide for the publication of the laws of the United States and for other purposes," it

is made the duty of the Secretary of State. [Follows the substance of the Act.]

And whereas neither the act just quoted from nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide doubtful questions as to the authenticity of the organization of State legislatures or as to the power of any State legislature to recall a previous act or resolution of ratification of any amendment proposed to the Constitution;

And whereas it appears from official documents on file in this Department that the amendment to the Constitution of the United States proposed as aforesaid has been ratified by the legislatures of [follows the names of twenty-three States];

And whereas it further appears from documents on file in this Department that the amendment to the Constitution of the United States proposed as aforesaid has also been ratified by newly constituted and newly established bodies avowing themselves to be, and acting as the legislatures of the States of Arkansas, North Carolina, Louisiana, South Carolina and Florida;

And whereas it further appears from official documents on file in this Department that the legislatures of two of the States first above mentioned, to wit, Ohio and New Jersey, have since passed resolutions withdrawing the consent of each of said States to the aforesaid amendment, and whereas it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid and therefore ineffectual for withdrawing the consent of the said two States or of either of them to the aforesaid amendment;

And whereas, the whole number of States in the United States is thirty-seven, to wit: [follows the names of the states];

And whereas the twenty-three States first hereinbefore named, whose legislatures have ratified the said proposed amendment, and the six States next thereafter named, as having ratified the said proposed amendment by newly con-

stituted and established legislative bodies, together constitute three-fourths of the whole number of States in the United States:

Now therefore, be it known that I, William H. Seward, Secretary of State of the United States, by virtue and in pursuance of the second section of the Act of Congress approved the twentieth of April, eighteen hundred and eighteen, hereinbefore cited, do hereby certify that, if the resolutions of the legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining of full force and effect notwithstanding the subsequent resolutions of the legislatures of those States which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned and so has become valid to all intents and purposes as a part of the Constitution of the United States.

(SEAL) In testimony, &c.
Done, &c. this twentieth day of July in the year of our Lord one thousand eight hundred and sixty-eight.

WILLIAM H. SEWARD,
Secretary of State.[1]

For the second amendment proposed in 1866, Secretary Seward issued a proclamation July 28, 1868, setting forth the terms of the amendment and a concurrent resolution of Congress of July 21, 1868,[2] that the fourteenth Article had been ratified, and proceeded:

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the

[1] *Documentary History of the Constitution*, II, 783.
[2] 15 *Stat.*, 709.

aforesaid act and of the aforesaid concurrent resolution of the 21st of July, 1868, and in conformance thereto, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States, and I do hereby certify that the said proposed amendment has been adopted in the manner hereinbefore mentioned by the States specified in the said concurrent resolution, namely, the States of [naming the states], the States thus specified being more than three-fourths of the States of the United States.

And I do further certify that the said amendment has become valid to all intents and purposes as a part of the Constitution of the United States.

In testimony, &c.

The ratification of the amendment of 1868 was regularly proclaimed in a similar manner by Secretary Hamilton Fish, March 30, 1870.[1]

The amendment proposed by the 61st Congress, 1909, was sent to the Governors of the several states with the following letter:

DEPARTMENT OF STATE,
WASHINGTON.

His Excellency
The Governor of the State of ————

Sir:

I have the honor to enclose a certified copy of a Resolution of Congress, entitled "Joint Resolution Proposing an amendment to the Constitution of the United States," with the request that you cause the same to be submitted to the Legislature of your State for such action as may be had, and that a certified copy of such action be communicated to the

[1] *Documentary History of the Constitution*, II, 893.

Secretary of State, as required by Section 205, Revised Statutes of the United States.

An acknowledgement of the receipt of this communication is requested.

I have the honor to be, Sir,

Your obedient servant,

It was not till February 13, 1913, that the Secretary of State was able to proclaim its ratification. The next amendment, proposed in 1912, was ratified quickly, the Secretary of State's proclamation bearing date March 31, 1913.

It remains to notice as interesting among the less important occasional duties of the Department, its relation towards those universal or international exhibitions of the arts, sciences, and products of the earth which are held from time to time in this country or abroad. The degree of control exercised by the federal government over those held in this country has varied with each exhibition and has never been complete. Foreign nations are invited to participate by the Department of State, through its diplomatic and consular representatives or through foreign diplomatic representatives in the United States, the invitations being authorized by law or sent in pursuance of the general duty of the Department to foster laudable American enterprises; but the Department is not responsible for the conduct of a fair and does not prescribe regulations to govern it.

The first of the expositions held in this country was that of 1853 at New York, under the auspices of a local board of directors and without any financial or

other connection with the general government beyond a general patronage; but the next was the Centennial Exhibition of 1876, for which a plan was adopted which has since maintained in a general way in other important American international fairs. It was provided, in the first section of the Act of March 3, 1871,[1] that the exhibition should be held "under the auspices of the government of the United States," and a commission was provided for, consisting of a commissioner and an alternate from each of the states, appointed by the President upon the nomination of the several Governors of the states. The Secretary of State informed the Governors of the provisions of the act, received the nominations, and the commissions signed by the President were countersigned by him and recorded in his Department. He invited the participation of foreign governments in a circular note to each foreign minister in Washington:

DEPARTMENT OF STATE,
WASHINGTON, *July 5, 1873.*

Sir,

I have the honor to inclose, for the information of the Government of a copy of the President's Proclamation, announcing the time and place of holding an International Exhibition of Arts, Manufactures, and Products of the Soil and Mine, proposed to be held in the year eighteen hundred and seventy-six.

The Exhibition is designed to commemorate the Declaration of Independence of the United States, on the one hundredth anniversary of that interesting and historic national event, and at the same time to present a fitting opportunity for

[1] 16 *Stat.*, 470.

such display of the results of Art and Industry of all nations as will serve to illustrate the great advances attained, and the successes achieved, in the interest of Progress and Civilization during the century which will have then closed.

In the law providing for the holding of the Exhibition, Congress directed that copies of the Proclamation of the President, setting forth the time of its opening and the place at which it was to be held, together with such regulations as might be adopted by the Commissioners of the Exhibition should be communicated to the Diplomatic Representatives of all nations. Copies of those regulations are herewith transmitted.

The President indulges the hope that the Government of will be pleased to notice the subject and may deem it proper to bring the Exhibition and its objects to the attention of the people of that country, and thus encourage their co-operation in the proposed celebration. And he further hopes that the opportunity afforded by the Exhibition of the interchange of national sentiment and friendly intercourse between the people of both nations may result in new and still greater advantages to Science and Industry, and at the same time serve to strengthen the bonds of peace and friendship which already happily subsist between the Government of and those of the United States.

I have the honor, &c.

HAMILTON FISH,
Secretary of State.[1]

Having invited the participation of foreigners, most of the correspondence relative to exhibiting was carried on directly between exhibitors and the fair officials; and such complaints as were made by foreign exhibitors to their diplomatic representatives and sent to the Secretary of State were referred by him for

[1] *World's Fairs from London, 1851, to Chicago, 1893* (Norton), 41.

report to the fair officials; but the final reports of the fair were made to the Secretary of State, who sent them to Congress.

The Foreign World's Fair, held at Boston in 1883, was entirely in private hands, but the government by Act of June 28, 1882,[1] allowed the foreign exhibits to be admitted free of duty, a course which it has pursued towards all important fairs in this country. The Secretary of State brought the exhibition to the attention of foreign countries in the manner indicated by the following letter:

Gen. C. B. Norton,
Secretary Foreign Exhibition,
Boston, Mass. [*June, 1882.*]

Sir:—

The members of the Massachusetts Congressional delegation have visited me asking the countenance of the government in furtherance of the proposed Exhibition of Foreign Manufacturing, Artistic and Industrial Productions, which it is proposed to hold in Boston during September, October and November of the Present year. This project had already been brought to the attention of this government, and will be supported by it so far as may comport with the fact that it is local rather than a national enterprise. To this end, I have instructed the Diplomatic representatives of the United States abroad to bring the subject suitably to the notice of foreign governments, and I have also prepared a circular of instructions to our consuls directing them to give publicity to the circulars issued by your association, and to furnish intending exhibitors with all needful information. It gives me pleasure to acquaint you with this action, and to request that you send me, with as little delay as possible, 5000 copies

[1] 22 *Stat.*, 116.

of your descriptive circular, for distribution through the ministers and consuls.

Your obedient servant,

FREDERICK T. FRELINGHUYSEN,
Secretary of State.[1]

The Act of April 25, 1890,[2] created the World's Columbian Commission for the World's Fair at Chicago under conditions similar to those imposed in the case of the Centennial Exposition. The Secretary of State called the commission together June 27, 1890, and thereafter acted with reference to the fair as he had done in the case of the Centennial Exposition. The same course has been pursued towards other fairs.

In the participation of the United States in foreign international exhibitions, the Department is naturally the official medium, but the practice of extending congressional recognition on these occasions has varied widely.

There was no national representation of the United States at the Crystal Palace Exhibition held in London in 1851, which was the first of the great World's Fairs. Several of the states appointed commissioners, and the exhibits were under state supervision,[3] but the fair had no official federal recognition. For the next fair held at London, that of 1862, a joint resolution of July 27, 1861,[4] authorized the President to take such

[1] *World's Fairs* (Norton), 52.

[2] 26 *Stat.*, 62.

[3] See Report of Benj. P. Johnson, Agent of the State of New York, appointed to attend the Exhibition of the Industry of all Nations in London, 1851.

[4] 12 *Stat.*, 328.

measures as should seem to him best to facilitate a proper representation of the industrial interests of the United States, $200,000 being appropriated for the purpose.

When the government of France invited the United States to participate in a universal exposition to be held in 1867, Congress authorized and requested the Secretary of State by joint resolution of January 16, 1866,[1] to prescribe general regulations concerning the participation of the United States. It was provided that there should be a principal agent of the exposition in New York and professional and scientific commissioners, appointed by the President. The Department issued these appointments, and conducted official correspondence with the French government; but the American agent and commissioners were expected to act directly with exhibitors, and this course has been pursued with reference to subsequent foreign fairs.

The Paris Universal Exposition of 1878 furnishes an example of the course usually followed. The joint resolution of December 15, 1877,[2] provided for a commissioner-general "to represent the United States in the proposed Exposition," who was to make all regulations for exhibitors under the direction of the Secretary of State, and on March 12, 1878, Secretary William M. Evarts issued official instructions approving the rules which the commissioner had prepared, laying down the limitations of expenditures and requiring that reports on the exhibitions be made to

[1] 14 *Stat.*, 347.
[2] 20 *Stat.*, 245.

the Secretary of State in a form fitted to transmit to Congress for publication.[1]

For the Paris Exhibition of 1889, Secretary T. F. Bayard, in his letter of instructions to the commissioner-general, General William B. Franklin, July 6, 1888, indicated the full extent of the Department's participation in the affairs of the exhibition.

"The Department," he said, "will address to the Governor of each State and Territory an official notification in the language of the resolution of Congress; and the heads of the several Departments will be consulted as to the possibility of official cooperation. All replies to these communications will be transmitted to you."

He was required to make monthly reports of expenses to the Department.

The Department's circular letter to the Governors was as follows:

DEPARTMENT OF STATE,
WASHINGTON, *July 3, 1888.*

Sir,

By a joint resolution of Congress, approved May 10, 1888, the Government of the United States accepted the invitation of the Republic of France to take part in an exposition of works of art and the products of manufactures and agriculture of all nations, to be held in Paris, commencing the 5th day of May and closing the 31st day of October, 1889.

I have the honor to inclose herewith copies of the joint resolution referred to, and in accordance with its terms I would request you, by such methods as you may deem most

[1] *Reports of Commissioners to the Paris Exposition of 1878,* Vol. I, introduction.

suitable, to notify the people of your State to assist in the proper representation of the productions of our industry and of the national resources of our country. I would also suggest that you take such further measures as may be necessary in order to secure to your State the advantages to be derived from this beneficent undertaking.

The President, by and with the advice and consent of the Senate, has appointed General William B. Franklin as Commissioner-General to the Paris Exposition, and the office of the commission is now established at No. 35 Wall Street, New York City.

I have the honor to be, Sir,
Your obedient servant,
T. F. Bayard.

The Act of May 22, 1908,[1] accepted the invitation of the Japanese government to participate in the exposition to be held in that country in 1912 (afterwards postponed by Japan to 1917). It provided for a preliminary survey by a commission of three commissioners-general who should act under the directions of the Secretary of State.

On February 15, 1911, the President was authorized "to invite foreign countries to participate in the Panama-Pacific Exposition in 1915 at San Francisco, Cal." He issued his proclamation February 2, 1912, reciting that "satisfactory proof has been presented to me that a suitable site has been selected for the said exposition and that the sum of not less than fifteen million dollars will be available to enable the Panama-Pacific International Exposition Company" to hold the exposition. Wherefore "all the nations

[1] 35 *Stat.*, 183.

of the earth are invited to take part in the commemoration of an event of great interest and importance to the world by appointing representatives to the Panama-Pacific International Exposition, and sending thereto such exhibits as will most fitly and fully illustrate their resources, their industries and their progress in civilization.'' This proclamation has been sent to foreign countries by the State Department and all necessary official assistance that the Exposition Company requires in dealing with foreign governments is rendered by the Department.

CHAPTER VIII

SUBDIVISIONS OF THE DEPARTMENT

I

WHEN the old government gave place to the new in 1789, the state papers of the old Congress were placed in the hands of Roger Alden and Henry Remsen, the former having those which related to domestic affairs, the latter those relating to foreign affairs. The papers were turned over to the Secretary of State when his department was created. When John Jay assumed temporarily the direction of the Department, he put Remsen in charge of the foreign affairs and Alden in charge of its domestic duties; and when Jefferson entered upon the office of Secretary of State, he confirmed this arrangement, and the heads of these subdivisions held equal rank. His estimates for the expenses of his Department in 1790 were for "The Home Office" and "The Foreign Office"; but after Alden's resignation on July 25 of that year the arrangement of a single chief clerk, which the law had originally contemplated, was effected, and the two divisions of the Department were merged under Remsen.[1] In 1802 William Thornton was put in charge of the patent business of the Department and that became the first distinct

[1] *Ante*, p. 95.

and permanent subdivision. The first specific appropriation for the salaries of the Secretary and officers (clerks) of the Department was for the year 1792 and amounted to $6,300;[1] and it rose slightly in the subsequent years.[2] The compensation of the chief clerk had been fixed by law at $800, but the Act of 1794 gave him an additional allowance of $200.[3] No clerk could be paid more than $500 under the law, until the Act of 1795 permitted the Secretaries of State, Treasury, and War to vary the compensation according to the services performed, keeping the whole expenditure within the appropriation, but no principal clerk was to receive more than $1,000.[4] In 1797 the appropriations had risen to $16,497.64.[5] In 1799 the salary of the Secretary was increased to $5,000,[6] and in 1801 there was an appropriation of fifteen per cent over the amount appropriated in 1799 to the clerks in the several departments.[7] Following this provision, on June 25, 1801, the clerks addressed Secretary Madison, asking him to apportion the extra allowance among them.[8] The extra allowances occasionally provided by law were the only compensation received by the clerks beyond their regular salaries, and the custom

[1] 1 *Stat.*, 226.

[2] See Statement of Appropriations and Expenditures of the Dept. of State from 1789, Washington, 1777, Ex. Doc., No. 38, 44th Cong., 2d Sess., Senate.

[3] 1 *Stat.*, 392.

[4] 1 *Stat.*, 443.

[5] 1 *Stat.*, 498.

[6] 1 *Stat.*, 729.

[7] 2 *Stat.*, 117, 119.

[8] Madison MSS., Lib. Cong.

which prevailed in England among the clerks in the Foreign Office of receiving pecuniary gifts from foreign ministers never became the practice in Washington. The expectations of such gifts in London are indicated by the following letter to Rufus King, American envoy at London, dated January 15, 1800:

> The Clerks of the Foreign Office present their respects to Mr. King and have taken the liberty of directing the Bearer Mr. Turner to wait upon His Excellency for the Christmas gratuity usually given to them by the Foreign Ministers.[1]

As the organic act of the Department provided that the Chief Clerk should be appointed by the head of the Department, so were the inferior clerks appointed by him and directly responsible to him. The power of the President as the head of the executive branch of the government was not interfered with by this arrangement, however, as he might still direct the Secretary to appoint or remove clerks whenever he chose to do so. This power has been exercised freely by some Presidents and not at all by others, the frequency and extent of the use depending upon the varying dispositions of Presidents and circumstances which seem to call for the exercise of the power. Two examples will suffice to illustrate.

The first is from Andrew Jackson:

> The President with his respects to the Secretary of State, begs leave to draw his attention to a regulation adopted by the President at the commencement of his administration,

[1] Dept. of State MSS., Passport Letters, I.

to wit, that where any officer under the Government contracted debts and failed to pay them, but took the benefit of the insolvent debtors act, he should be forthwith removed—report has been made that such violations of the rule have been made in the patent office; you will cause the necessary inquiries to be made, in your Department, and report the same to me, that such clerks may be removed—The enquiry will only be to debts contracted under the present administration and not before.

August 1st, 1831.

WASHINGTON, *August 6, 1831.*

Sir:

Lemuel W. Ruggles Esq., clerk in the "Patent Office," is hereby dismissed from office as it has been reported to me that he has taken the benefit of the Insolvent Debtors' Act for debts contracted *during* my administration. The heads of Departments are charged to report all clerks, who are guilty of the same conduct, to the President for dismissal.

Very Respectfully,

ANDREW JACKSON.

Secretary of State.[1]

A second example was furnished in 1885, when Thomas F. Bayard, the Secretary of State, required the Chief Clerk, Sevellon A. Brown, to resign, saying that the President had directed him to make the request.

The executive staff of the Department in 1790 has already been given.[2] It varied little from year to year, separations from the service being few. In

[1] Papers from the President, 1825 to 1832, Dept. of State MSS.

[2] *Ante*, p. 96.

1800, with the annual salaries received, it was as follows:

John Marshall, Secretary	$5,000
Jacob Wagner, Chief Clerk	1,500
Hazen Kimball, Clerk	900
Joseph Dennie, Clerk	800
Christopher S. Thom	650
John C. Miller	600
Stephen Pleasonton	600
William Crawford	600
John N. Smith, Clerk	500
John Lee, Messenger	350
Total	$11,500[1]

The Act of April 21, 1806,[2] required the Secretary of State to report to Congress at the beginning of each year the names of the clerks employed and the sum paid each; and this report of the Secretary also indicated the duties performed by each.

REPORT.

IN pursuance of the act of Congress, entitled "An act to regulate and fix the compensation of clerks," &c. the secretary of state has the honor to report to Congress, the annexed list of the persons employed in his office, and to state that the business of the department generally is in a state of progressive increase; that particularly the business relating to patents issued for useful arts, has increased at the rate of doubling in four years; and that patents for lands, and the business attending the impressment of American seamen, have also much increased. It is his opinion, therefore, that

[1] Madison MSS., Lib. Cong.

[2] 2 *Stat.*, 397.

the public service would be promoted by a provision, at least sufficient for the employment of an additional clerk.

All which is respectfully submitted.

JAMES MADISON.

Department of State,
January 1, 1807.

List of the names and compensation of the persons employed in the Department of State, in the year 1806, viz.

Mr. WAGNER, $2,000.

The chief clerk distributes the business among the others, and superintends its execution, under the direction of the secretary. His active duties are diversified according to the nature and pressure of the general business of the department; and among them may be particularized his assistance in its correspondence upon minor subjects.

Mr. BRENT, $1,000.

In conjunction with Mr. Smith, he attends to the business of impressed seamen, and assists in collating the laws preparatory to their publication, which he superintends.

Mr. PLEASONTON, $906.

Makes out and records patents for military bounty lands; for lands in John Cleves Simmes' tract; exequaturs for consuls; all civil commissions, and commissions for militia officers within the district of Columbia; records the correspondence with our ministers in foreign countries, and transmits the laws to the printers for promulgation.

Mr. THOM, $881.

Makes out and records Virginia military land patents; pays the awards under the seventh article of the British treaty, so far as they are payable in the department, and keeps the contingent accounts of the department.

Mr. SMITH, $800.

Records all the correspondence, except that with the ministers abroad, and in conjunction with Mr. Brent, attends to the business relative to impressed seamen, and to collating the laws, previous to their publication.

Mr. FORREST, $800.

Makes out and records patents for lands sold under the direction of the registers; and also, passports for citizens going abroad. His knowledge of the French language, which he speaks, is found an useful quality.

Mr. I. GARDNER, for occasional service in filling up and recording land patents, } $25

Among other business too various to be detailed, there is a considerable quantity of copying, particularly of correspondence with our ministers and agents abroad, frequently including voluminous documents: This is performed by the gentlemen of the office, according to the state of their other engagements, without its being the stationary business of any.

PATENTS AND COPY-RIGHTS.

For services rendered by Dr. Thornton, in superintending and issuing patents for useful inventions and discoveries; in securing copy-rights, &c. &c. a compensation has been allowed him of $1,400.

Jacob Wagner had been appointed Chief Clerk when Remsen resigned in 1792, having been selected, as Jefferson explained, because he was the senior clerk in the Department and was familiar with its duties.[1] No political considerations influenced his selection, nor did they effect his removal. He was a Federalist of the extreme type and his views were known. On

[1] Jefferson to William Barton, April 1, 1792. *Writings* (P. L. Ford), V, 491.

November 20, 1801, William P. Gardner informed the President of Wagner's political opinions and the letter was sent to Madison, but Wagner remained in office until March 31, 1807. After his retirement he joined the opposition actively and edited the *North American and Mercantile Daily* in Baltimore in 1808, which in the following year became the *Federal Republican,* one of the most violent of the anti-administration organs. The press was destroyed by a mob June 22, 1812.[1]

For his successor the Secretary went outside of the Department staff for the first time, and selected a personal friend in John Graham, who had been secretary of legation and *chargé d'affaires* at Madrid from 1801 to 1804. He held the chief clerkship from July 1, 1807, to July 18, 1817, when he was appointed commissioner to Buenos Ayres. When Madison left the Presidency he sent a letter to his successor commending Graham and explaining how he had entered the State Department:

WASHINGTON, *Mar. — 1817.*

Dear Sir:

Altho' your personal and official acquaintance with Mr. J. Graham, be well known to me, I can not, on the occasion of my final departure from the public service, satisfy myself, without expressing my sense of his great merit.

Mr. Graham, recommended by my knowledge of his public agency abroad, and of his private virtues, was invited into the Department of State, as the chief under the Head of it, whilst the Department was in my hands. It was my wish, more than his own that was gratified by his appointment.

[1] Scharf, *Chronicles of Baltimore,* 88, 315.

And I have always considered it as the effect of an honorable desire to serve his country, combined with his personal and political feelings, that he remained for so long a period, in a station without the attractions, which could otherwise have detained him in it.

On these grounds, and from continued and varied opportunities of being intimately acquainted with Mr. Graham, I not only take a pleasure, but feel an obligation, in saying that I regard him as among the most worthy of men, and most estimable of citizens; as adding to a sound and discriminating judgment, a valuable stock of acquirements adapted to public affairs; and to both, a purity of character, a delicacy of sentiment, and an amenity of temper and manners, exceeded in no instance to which I could refer.

With this view of his capacity to be useful to his country and the principles guarantying a proper exertion of it, I can not but hope that suitable occasions may present themselves for preventing a loss to the public of the services of a citizen, so highly entitled to its confidence.

With the highest consideration &
regard, I remain
Yours
JAMES MADISON.

The President of the U. S.[1]

During Jacob Wagner's incumbency as Chief Clerk, there were destructive fires in the buildings occupied by the Treasury, War, and State Departments; but he saved the records of his Department.[2] His successor, John Graham, was one of several who saved them again from fire and possibly from a worse fate than fire.

The serious danger of capture of the city of Wash-

1 Dept. of State MSS., Miscl. Letters, Vol. 55.
2 Madison MSS., Lib. Cong.

ington in the second year of the War of 1812 was realized by no one more keenly than by the Secretary of State, James Monroe. As President Madison had confidence in Monroe's military skill, he was encouraged to make a personal investigation of the advance of the enemy towards the city in the summer of 1814, and he left the city for that purpose on the evening of August 19.

On the following day he saw the British forces from an eminence near Benedict and at once sent a note by a vidette to his department directing the officers to save the records. The next day John Graham, Stephen Pleasonton, and Josias W. King packed them in bags prepared for the purpose.[1] Mr. Pleasonton told the story many years afterwards:

> Whereupon, he says, I proceeded to purchase coarse linen, and cause it to be made into bags of convenient size, in which the gentlemen of the office, assisted by me, placed the books, and other papers, after which I obtained carts, and had them conveyed to a grist mill, then unoccupied, belonging to Mr. Edgar Patterson, situated a short distance on the Virginia side of the Potomac, beyond the Chain bridge, so called, two miles above Georgetown.
>
> Whilst engaged in the passage of the building with the papers, the Department of State being on one side, and the War Department on the other side of the passage, General Armstrong, then Secretary of War, on his way to his own room, stopped a short time, and observed to me, that he thought we were under unnecessary alarm, as he did not think the British were serious in their intentions of coming to Washington. I replied that we were under a different belief and let their intentions be what they might, it was the

[1] *National Intelligencer*, June 10, 1867.

part of prudence to preserve the valuable papers of the Revolutionary Government, comprising the Declaration of Independence, the laws, the secret journals of Congress, then not published, the correspondence of General Washington, his commission resigned at the close of the war, the correspondence of General Greene and other Generals, as well as all the laws, treaties, and correspondence of the Department of State since the adoption of the Constitution down to that time.

Considering the papers unsafe in the mill, as, if the British forces got to Washington, they would probably detach a force for the purpose of destroying a foundry for cannon and shot in its neighborhood, and would be led by some evil disposed person to destroy the mill and papers also, I proceeded to some farm houses in Virginia, and procured wagons in which the books and papers were deposited, and I proceeded with them to the town of Leesburg, a distance of 35 miles, at which place an empty house was procured, in which the papers were safely placed, the doors locked, and the keys given to the Rev. Mr. Littlejohn, who was then or had been, one of the collectors of internal revenue.

Being fatigued with the ride, and securing the papers, I retired early to bed, and was informed next morning by the people of the hotel where I staid, that they had seen, the preceding night, being the 24th of August, a large fire in the direction of Washington, which proved to be a light from the public buildings the enemy had set on fire, and burned them to the ground.

On the 26th August I returned to Washington, and found the President's house and public offices still burning, and learned that the British army had evacuated the city the preceding evening, in the belief that our forces were again assembling in their rear, for the purpose of cutting off their retreat. . . . .

As a part of the British fleet soon afterwards ascended the Potomac, and plundered Alexandria of a large quantity

of flour and tobacco, threatening Washington at the same time with a second invasion, it was not considered safe to bring the papers of the State Department back for some weeks. Not, indeed, until the British fleet generally had left the waters of the Chesapeake. In the meantime, it was found necessary for me to proceed to Leesburg occasionally, for particular papers, to which the Secretary of State had occasion to refer in the course of his correspondence.[1]

The record is silent on the subject of the disposition made of the great seal at this time, and apparently it was not taken with the archives. Certain it is, however, that it escaped injury. It was impressed upon the proclamation issued by the President on September 1, according to the recital; but that proclamation is not of official record. If it had been with the records which Pleasonton carried to Leesburg, it is probable that he would have mentioned the fact. Pleasonton was the actual keeper of the seal, however, as the commission clerk, and it seems probable that he hid it in Washington and brought it out again when the President returned. No effort was made to remove the models of the Patent Office; they were too numerous and too bulky to justify the attempt; but the day before the entrance of the British into the city Dr. Thornton removed the records to his farm, and when the work of destruction by the enemy was in progress he successfully interceded with the British officers to abandon their purpose of burning the models of inventions useful to mankind.[2]

[1] Samuel Pleasonton to W. H. Winder, Jr., August 7, 1848. E. D. Ingraham, *Sketch of the Events which preceded the Capture of Washington*, Philadelphia, 1849.

[2] Thornton Papers, Lib. of Cong. MSS.

An official report on the saving of the records was made by Secretary Monroe on November 17:

Report of the Secretary of State, of the loss of books, papers, &c. occasioned by the incursion of the enemy in the month of August 1814; made pursuant to an order of the house. November 17, 1814. Read, and ordered to lie on the table.

THE acting secretary of state, in compliance with the resolution of the house of representatives of the 24th ult. requesting such information as may be in the power of the several departments to afford, in relation to the destruction of official books and papers in their departments, respectively, in consequence of the incursion of the enemy in the month of August, 1814, has the honor to report:

That when it became apparent from the movements of the enemy, after his debarkation at Benedict, that his destination was the seat of government, every exertion was made, and every means employed, for the removal of the books and papers of this office, to a place of safety; and notwithstanding the extreme difficulty in obtaining the means of conveyance, it is believed, that every paper and manuscript book of the office, of any importance, including those of the old government and all in relation to accounts, were placed in a state of security. That it was not found practicable, however, to preserve in like manner, the volumes of laws reserved by congress for future disposition; many of the books belonging to the library of the department, as well as some letters on file of minor importance from individuals on business mostly disposed of, which were unavoidably left, and shared the fate, it is presumed, of the building in which they were deposited.

All which is respectfully submitted,

JAMES MONROE.

Department of State,
November 14, 1814.

John Quincy Adams reported some years later that a volume of instructions to marshals for 1800 had been lost.[1]

The injuries actually inflicted upon the official records at Washington through the capture of the city by the British have been stretched to cover a multitude of losses from other causes. So far as the State Department is concerned, the vigilance of Monroe and of Pleasonton and his colleagues prevented any destruction of important irreplaceable archives. That they deserve public gratitude for this will be realized if the mind is permitted to imagine the indelible shame which would have followed if they had been less loyal and resourceful, and Cockburn and Ross had carried away with them, as trophies of their exploit, the original of the Declaration of Independence and the Constitution of the United States.

When Graham retired as chief clerk his place was taken on April 21, 1817, by Daniel Brent, and John Quincy Adams, entering upon the duties of Secretary of State on September 22 of that year, confirmed the assignment because of Brent's previous service in the Department.[2]

There were still no subdivisions in the Department, except so far as the Patent Office was one. Adams found the correspondence in great confusion because of the want of system, and introduced certain improvements in registering and indexing incoming and

[1] *Diary*, V, 134.
[2] *Ibid.*, IV, 9.

outgoing mail. The business had greatly increased; the force of the Department had been enlarged; the salaries were higher. In 1820 the officers and salaries were:

John Quincy Adams, Secretary of State	$6,000 per annum
Daniel Brent, Chief Clerk	2,000 " "
Richard Forrest, Clerk	1,600 " "
John B. Colvin, Clerk	1,400 " "
Josias W. King, Clerk	1,400 " "
Moses Young, Clerk	1,400 " "
John Barley, Clerk	1,400 " "
Andrew T. McCormick, Clerk	1,400 " "
Fontaine Maury, Clerk	1,000 " "
Thomas L. Thurston, Clerk	800 " "
George E. Ironside, Clerk	800 " "
Wm. Elliot, Clerk of Patent Office	1,000 " "
Joseph Waring, Messenger, State Dept.	410 " "
Robert Fenwick, Messenger, Patent Office	250 " "
William Mane, Asst., State Office	300 " "
	$21,160

The Chief Clerk's salary had been increased to $2,000 per annum by the appropriation Act of April 20, 1818,[1] and the following year (Act of February 20, 1819), the Secretary's compensation was raised to $6,000.[2] Up to the year 1853 the Chief Clerk was the second officer in the Department, and was not only the head of the executive force but acted as Secretary when his chief was absent. Daniel Brent held the office for twenty-six years, until August 8, 1833, when he was

1 3 *Stat.*, 445.
2 3 *Stat.*, 484.

appointed consul at Paris. His successors passed in and out of the office in rapid succession, until Robert S. Chew was appointed May 8, 1855, remaining in office until his death, August 2, 1873.

In 1853, by Act of March 3, provision was made for an Assistant Secretary of State at $3,000 per annum,[1] the Act of July 25, 1866, created the office of Second Assistant Secretary at $3,500 per annum, increasing the Assistant Secretary's salary at the same time; the Act of June 30, 1875, added the Third Assistant Secretary at the same compensation.

The Act of August 12, 1848, provided that a clerk, whose compensation should be $2,000 per annum, be assigned to the duty of examining claims presented to the Department of State of American citizens against foreign governments, and by Act of July 25, 1866, the office of Examiner of Claims, with an annual salary of $3,500 was established.[2] It was abolished by the Act of July 20, 1868,[3] and re-established May 27, 1870,[4] and when the Department of Justice was organized June 22, 1870, the office was transferred to its nominal jurisdiction, the nature of the duties, however, remaining undisturbed. By Act of March 3, 1891, the title was changed to Solicitor for the Department of State.[5] He was the law officer of the Department from the time the office was created, rendering opinions upon questions of law when the

[1] 10 *Stat.*, 212.
[2] 14 *Stat.*, 226.
[3] 15 *Stat.*, 96.
[4] 16 *Stat.*, 378.
[5] 26 *Stat.*, 945.

Secretary directed him to do so and having supervision of all questions relating to claims.

In the expansion of the Department's business, certain clerks were assigned to certain branches of it, and from this division of labor came the establishment of the bureaus or divisions; but there were no such bureaus or divisions recognized by title or regular arrangement until Secretary Louis McLane submitted a formal memorandum on the subject of his Department to President Andrew Jackson on August 29, 1833. He had, he said, upon entering upon the duties of his office, caused a report to be made to him upon the condition of the business of the Department with a view to more perfect organization, and had drawn up regulations which he submitted for the President's approval. He invited attention to the "Magnitude of the archives of the Diplomatic Bureau," and the necessity for larger accommodations, observing that each of the other bureaus was at a similar disadvantage. He accordingly recommended that the Fifth Auditor's office, which was occupying three rooms contiguous to those appropriated to the Department of State, be moved to the new building about to be rented to the government. The President approved the report and ordered that its recommendations be carried out.

The following arrangement of the "gentlemen employed, the distribution of their duties, and rules for their performance," were directed to be observed:

Chief Clerk. His duties were to be "such, in all respects, as pertain to an Under Secretary of State."

He was to exercise an immediate superintendence of the bureaus, to see to the distribution of the letters and other communications and report all acts of misconduct or omission to the Secretary.

The Diplomatic Bureau. It was to attend to all notes and instructions, prepare letters of credence and treaties, receive, register, and file all dispatches. The duties were to be divided among three clerks, one to have charge of the missions to England, France, Russia, The Netherlands; another to index the instructions and the dispatches and have especial charge of the missions to all other countries in Europe. The third was to have especial charge of the missions to countries in North and South America. An index of all the business was to be carefully kept, and a synopsis of the state of each mission; besides a register of daily transactions, occurrences, and communications relative to the business of the bureau. A general weekly correspondence was to be kept up with each of the missions abroad, containing general information of a foreign and domestic character.

Consular Bureau. It was to have charge "of all business generally appertaining to the Consular concerns of the Departments." Indexes, registers, and synopses were to be kept, as in the Diplomatic Bureau. Two clerks were to perform all the duties.

Home Bureau. One clerk was to perform the duties, which were to file and register all domestic correspondence, authenticate certificates under the Department seal, and keep the registers of seamen and arrivals of passengers from foreign ports.

Bureau of Archives, Laws, and Commissions. It was to keep and arrange the archives, make out and record commissions, have charge of the rolls of laws, their publication and distribution, and also of the messages of the President and reports of Heads of Departments, and all applications for office. Ordinarily one clerk was to perform the duties, but another was to assist when the publication and distributing of the laws was in progress, and for the present to arrange and put in complete order the archives and papers.

Bureau of Pardons, and Remissions, and Copyrights and of the Care of the Library. One clerk was to perform the duties, preparing the pardons for signature, receiving all copyrights directed by law to be deposited in the Department, collecting the statutes of the different states and caring for the Library.

Disbursing and Superintending Bureau. One clerk was to perform the duties of making purchases, keeping the accounts, and paying out the appropriations, and keeping the seal of the United States and of the Department.

Translating and Miscellaneous Bureau. It was to translate "all letters, papers, and documents of every description whatsoever relating to the business and duties of the Department." It was also to enter upon the mail-books all communications received at the Department; to make out and record personal and special passports, and write the letters on that subject, correspond with the dispatch agent, file

miscellaneous letters. One clerk was to perform the duties.

Beside this definite arrangement, two clerks in the Secretary's office were to copy generally and render such assistance to the other clerks as might be necessary from time to time.

One unassigned clerk was to temporarily assist in Bureau of Archives.

The arrangement of clerks in the Patent Office was to remain unaltered for the present.

Notwithstanding the arrangement set forth, the Secretary was to be free to direct any clerk to perform such duties as he saw fit.

The hours of business were to be from 10 a.m. to 3 p.m., during which hours no clerk was to be absent, without special permission.

All business was to be treated as strictly confidential. All communications, except as to matters of accounts, to and from the Secretary, with the gentlemen employed in the Department, were to be made through the chief clerk, unless otherwise invited by the Secretary.

"A particular and minute Register" was ordered to be kept, under the direction of the chief clerk, of the receipt of letters and communications and of their daily disposition, and of the Department's action.

A similar register was to be kept by each bureau.

All business referred to the respective bureaus was to be finally acted upon and disposed of on the day of reference unless impracticable for good cause, "so

that the business of one day shall not be left to accumulate for another."

Copies of papers on file were in no case to be furnished to individuals having an interest in them; "and no copy of any letter relating to the Diplomatic or Consular Bureau shall be at any time furnished to any one, without express direction of the President of the United States, or of the Secretary of State."

No one was to write any letters relative to Department business without the Secretary's approbation.

Leave of absence for a longer period of time than twenty-four hours must be requested of the Secretary in writing.[1]

John Forsyth, who succeeded McLane the following year, modified the distribution of duties, his order taking effect October 31, 1834.

The Home Bureau was enlarged. One division was to register the returns of passengers from foreign ports, the abstracts of registered seamen and prepare the annual statements thereof for Congress; also to record the domestic and miscellaneous correspondence; and to have custody of treaties and foreign presents permitted to be shown to visitors. Under another clerk was all the domestic correspondence of the Department not pertaining to any other bureau, and he was to prepare and record commissions, prepare statements of vacancies occurring and of expiring commissions, to make out and record exequaturs, to receive and file applications for office, to prepare certificates to be authenticated under the seal of the

[1] Papers from the President, 1833 to 1836, Dept. of State MSS.

Department, and to keep the seals of the United States and of the Department. Another clerk had charge of the petitions for pardons and remissions of sentence and passports and correspondence relative thereto, and kept a daily register of all letters received other than diplomatic, of their disposition, and of the action of the Department thereon. To make the proper entries in this register each bureau, except the diplomatic, was required to send to the Home Bureau the purport of all answers to letters as soon as prepared, or, if no answer was to be given, must state the disposition made of the letter. The register was to be submitted daily to the Secretary. Another clerk was to file and preserve the returns of copyrights and register the copyrighted books, and prepare the letters relating thereto; also to record reports to the President and two Houses of Congress and assist in recording and copying generally. What had been the Bureau of Archives, Laws and Commissions was abolished and the office of the Keeper of the Archives took its place, with one clerk who was to have charge of the Archives of the Department, other than Diplomatic and Consular, and their arrangement and the correspondence relative thereto. He also had in his care the rolls of the laws and their recording, publication, and distribution, and the distribution of public documents.

The Translator and Librarian was to make the translations and perform the duties of librarian. Instead of the Disbursing and Superintending Bureau was substituted the Disbursing Agent, who was to

have charge of all the disbursements and purchases, under the control of the President and Secretary of State.[1]

[1] Circulars, Dept. of State, 54.

CHAPTER IX

SUBDIVISIONS OF THE DEPARTMENT

II

IN his first annual message, December 8, 1829, President Andrew Jackson said:

The great and constant increase of business in the Department of State forced itself at an early period upon the attention of the Executive. Thirteen years ago it was, in Mr. Madison's last message to Congress, made the subject of an earnest recommendation, which has been repeated by both of his successors; and my comparatively limited experience has satisfied me of its justness. It has arisen from many causes, not the last of which is the large addition that has been made to the family of independent nations and the proportionate extension of our foreign relations. The remedy proposed was the establishment of a home department—a measure which does not appear to have met the views of Congress on account of its supposed tendency to increase, gradually and imperceptibly, the already too strong bias of the federal system towards the exercise of authority not delegated to it. I am not, therefore, disposed to revive the recommendation, but am not the less impressed with the importance of so organizing that Department that its Secretary may devote more of his time to our foreign relations. Clearly satisfied that the public good would be promoted by some suitable provision on that subject, I respectfully invite your attention to it.[1]

[1] *Messages and Papers of the Presidents,* II, 461.

The recommendation of President Madison to which General Jackson referred, was in his message of December 3, 1816, and was for "an additional department in the executive branch of the Government," which should be "charged with duties now overburdening other departments and with such as have not been annexed to any department."[1] He did not specifically allude to the needs of the Department of State. Monroe and Adams made recommendations similar to Madison's.

Jackson's interest in the Department, as we have seen, took shape through his Secretary of State, in the first systematic subdivision in 1833, which was improved upon in 1834. In 1836 the Department was further systematized by Secretary John Forsyth.

THE FOLLOWING ARRANGEMENT OF THE GENTLEMEN EMPLOYED, THE DISTRIBUTION OF THEIR DUTIES, AND RULES FOR THEIR PERFORMANCE, WILL BE OBSERVED IN THE DEPARTMENT OF STATE, FROM AND AFTER THE 30TH OF NOVEMBER, 1836.[2]

1. THE CHIEF CLERK

The duties of this officer will be such, in all respects, as appertain to an Under Secretary of State. He will exercise an immediate superintendence over the duties of the respective Bureaux, and over those employed in them. He will receive the directions of the Secretary on matters requiring the action of the Department. He will promptly report all acts of negligence or misconduct to the Secretary. By the act of 27th July, 1789, the Chief Clerk is to be employed in

[1] *Messages and Papers of the Presidents*, I, 577.

[2] Circulars, Dept. of State.

the Department as the Secretary shall deem proper, and is to have the charge and custody of all records, books, and papers appertaining to the Department, whenever the Secretary shall be removed from office, or in any other case of vacancy.

Mr. holds the appointment of Chief Clerk, at an annual salary of $.

2. THE DIPLOMATIC BUREAU

Will have charge of the correspondence between the Department and the Ministers and other Diplomatic Agents of the United States; and also between the Department and the Ministers and other Diplomatic Agents of foreign powers in the United States; will copy and record the diplomatic despatches prepared in the Department, and file and preserve those received at the Department; prepare and record credential letters; prepare treaties for signature, ratification and exchange, and proclamations of treaties, and record the same, and prepare such drafts of letters as may be necessary; and generally will attend to all matters appertaining to the diplomatic affairs of the United States.

An index will be kept for each mission, in which the purport of each despatch prepared or received at the Department, is to be promptly entered.

The record of the communications made by the Department of State to each mission from or to the United States, will be kept in a separate book.

A synopsis of the concerns of each mission will be kept, and continued monthly, or oftener if required.

There will be kept, besides, a daily register of all communications received to be filed in this Bureau, and of the action of the Department thereon, and of each communication prepared in the Bureau in relation to diplomatic affairs; the substance of each communication to be stated as briefly as possible. In this register will be noted such other matters as may be directed; this register will be daily submitted to

the Secretary. Newspapers, and such documents published by this Government as may be useful, will be transmitted to the several missions abroad, of which transmission a note shall be made in the register.

In this Bureau will be regularly kept a record of the arrival of Foreign Ministers, Charges d'Affaires, and Consuls General, the date of their presentation, the time of their leaving the Government, and the circumstances of their departure.

The duties of this Bureau will be performed by three Clerks, viz:

Mr. , at an annual salary of $, will have special charge of the missions to and from, and the relations with England, France, Russia, and the Netherlands.

Mr. , at an annual salary of $, will have special charge of the missions to and from, and the relations with, all the other countries in Europe, Asia, and Africa, and of the Consular affairs with Tripoli, Tunis, and Morocco.

Mr. , at an annual salary of $, will have special charge of the missions to and from, and the relations with, the countries in North and South America.

3. THE CONSULAR BUREAU

Will have charge of the correspondence with the Consuls of the United States; will record all communications made to them by the Department, and file and preserve all those received from them, together with their statements and reports, and generally have charge of all business appertaining to the Consular concerns of the Department.

An index will be kept for each Consulate, in which the purport of each communication to or from the Department is to be properly entered. A daily register will also be kept, in which the Consular communications will be noted as soon as they are received, with the action of the Department thereon: this register will be daily submitted to the Secretary.

The record of the communications made by the Department to the Consuls within the limits of each independent Government in Europe and America, will be kept in a separate book, with the exception of those in Turkey.

The communications made to the several consuls in Asia, and in the dominions of the Ottoman Porte, will be recorded in one book.

In this Bureau will be kept a Digest of the Commercial Regulations of each foreign country with which the United States have intercourse. The Digest, compiled under a resolution of the House of Representatives of the 3d of March, 1831, will be the basis, as far as it goes; and all corrections, additions, and alterations reported by the Consuls or transmitted by the Diplomatic Agents of the United States, will be promptly and carefully entered in books to be kept for that purpose. To aid in completing this Digest, such publications as contain authentic information on the subjects in it are to be sent to this Bureau from time to time, as received, by the librarian, and extracts from despatches and papers by the Diplomatic Bureau.

The business of this Bureau will be performed by three Clerks, viz:

Mr. , at an annual salary of $, will have special charge of the Consulates in England, France, Russia, and the Netherlands, and their respective colonies.

Mr. , at an annual salary of $, will have special charge of the Consulates in all the other countries in Europe and Asia, and their colonies.

Mr. , at an annual salary of $, will have special charge of the Consulates in all the independent States, in North and South America, West Indies, and Islands of the Pacific.

4. THE HOME BUREAU

1. Will take charge of and register the returns of passengers from foreign ports, and the abstracts of registered seamen, and prepare annual statements thereof for Congress.

It will be charged with recording the domestic and miscellaneous correspondence.

It will have the care of those treaties and foreign presents which are permitted to be shown.

The duties of this division of the Bureau will be performed by one Clerk, Mr. , at a salary of $.

2. This Bureau will, also, have charge of all the domestic correspondence of the Department, which does not appertain to the business of some other Bureau, and will file and register the letters received, on the business confided to the Bureau.

It will have charge of making out and recording commissions; of preparing statements of vacancies occurring, and of expiring commissions; of making out and recording exequaturs granted to Consuls; of receiving and filing applications for office; of preparing certificates to be authenticated under the seal of the Department.

It will have charge of the seals of the United States and of the Department of State.

It will also be charged with collecting and preserving, in the library of the Department, the statutes of the different States, required by law to be collected and preserved in the Department.

6. THE TRANSLATOR

Will be charged with translating all letters, papers, and documents in a foreign language, relating to the business and duties of the Department. The translation is to be made immediately after the receipt of the original, and is to be filed with it in the proper Bureau.

He will also be charged with such other duties as may from time to time be assigned to him.

These duties will be performed by one Clerk, Mr. , at an annual salary of $.

7. THE DISBURSING AGENT

Will be charged with making purchases for the Department, and disbursing the fund for its expenses, including the expense of publishing and distributing the laws; also with making payments when specially authorized, from such appropriations, under the control of the President and Secretary of State, as are placed in his hands for disbursement; also with preparing for the signature of the Secretary, and registering requisitions for the payment of the authorized drafts of Ministers and Agents abroad. He will prepare and record the correspondence relating to the business with which he is charged. He will, also, make proper entries, in one or more books to be kept for that purpose, of all moneys received and disbursed by him, under each head of appropriation, and will render accounts thereof quarterly for settlement at the Treasury.

These duties will be performed by one Clerk, Mr. , at a salary of $.

Mr. is also Superintendent of the building occupied by the Department, for which he receives an annual compensation of $.

Notwithstanding the foregoing particular distribution of duties, each Clerk will, from time to time, perform such other duties as the public service may render necessary, and as shall be directed by the Secretary. And if, at any time, any gentleman finds that the duties assigned to him are insufficient to occupy him during office hours, he will report the fact to the Secretary.

The business of each Bureau will be preserved in confidence by the person or persons employed therein; and all business committed to any of the Clerks, will be by them treated as of a confidential nature, and on no occasion whatever to be divulged.

No diplomatic communications, nor any others of a confidential or important character, will be sent for signature by the messengers.

The records and papers of the Department are to be kept in locked cases, except when in actual use.

On ordinary occasions, communications between the Secretary of State and the gentlemen employed in the Department, and applications for information or direction, excepting as to matters of account, will be made through the Chief Clerk, unless specially invited by the Secretary.

All letters and other communications received at the Department will be acknowledged, and, where necessary, answered in detail, as soon as practicable after they are received.

All business referred to the respective Clerks will be finally acted upon and disposed of on the day of the reference, unless for good cause, to be made apparent; so that the business of one day shall not be left to accumulate for another.

Copies of papers on file or of record in the Department shall not be given except to individuals having an interest in them, or at their request; and no copy of any letter or despatch relating to the business of the Diplomatic or Consular Bureau, shall be given without the express direction of the President of the United States, or of the Secretary of State.

No letter will be written relative to the business of the Department without the approbation of the Secretary.

A report will be made to the Secretary as soon as practicable, by each Clerk, of the actual state of his business, accompanied with a list of the books of record in his charge, and their present condition.

No Clerk will be absent from the Department between the hours of 9 a.m. and 3 p.m. each day, (unless in case of sickness,) without special permission. The Department will also be kept open for the transaction of business from 8 o'clock to 9, and from 3 o'clock to 6, between the 1st of October and the 1st of April; and from 8 o'clock to 9, and from 3 o'clock

to 4, between the 1st of April and the 1st of October during which hours such attendance will be given as the Secretary may deem necessary to the public service. When, from indisposition or any unforeseen cause, the attendance of any Clerk during the day may be impracticable, he will give the earliest notice thereof to the Chief Clerk. If any one shall desire leave of absence for a longer period than twenty-four hours, he will submit his application to the Secretary, in writing, noting the reasons of his request, and the length of time he desires to be absent.

All foreign newspapers, after they shall have been perused by the Secretary and Chief Clerk, shall be committed to the Diplomatic Bureau; and such articles as may be deemed worthy of the particular notice of the Secretary, are to be marked, and, if in a foreign language, translated and submitted to the Secretary. Foreign newspapers are not to be lent to persons unconnected with the Department, without the permission of the Secretary.

These rules will be altered or modified, or added to, from time to time, as the state of the service may require, and as the Secretary may in his judgment direct.

JOHN FORSYTH,
Secretary of State.

This arrangement of the Department obtained, with minor modifications, for thirty-four years, until the reorganization effected by Hamilton Fish in 1870. Besides the clerks regularly assigned to the bureaus under the plan of 1836, were a number of extra clerks employed in varying department duties. On February —, 1845, Secretary John C. Calhoun wrote to the Committee on Ways and Means of the House of Representatives, saying that in 1818 there had been ten regular clerks in the Department, in 1827 thirteen,

and that there were then fourteen; but that the increasing duties of the Department had been performed by extra clerks appropriated for by single acts or joint resolutions of Congress. When he wrote there were eight of these extra clerks.[1]

The number of regular clerks was increased by one in 1849; in 1852 it had reached eighteen; in 1857 it was twenty-two; in 1859, twenty-four. After that year it remained almost stationary for twelve years,[2] until the Act of March 3, 1873, gave statutory recognition to the existence of the bureaus. By the Act of March 3, 1853, section 3,[3] the clerks in the executive departments, except the Department of State, were classified; and the Act of March 3, 1855, section 4, brought that Department within the scheme:

> That from and after the thirtieth of June, 1855, the Secretary of State, be, and he is hereby authorized and required to cause the examination, classification and distribution, of the clerks in the Department of State, in the same manner as directed in other executive departments by the provisions contained in the third section of the Act entitled 'An Act making appropriations for the civil and diplomatic expenses of government,' approved third March, 1853, who shall be paid annual salaries according to the act amendatory thereof, approved twenty-second April, 1854. And the whole permanent clerical force in said department shall consist of three clerks of class one, two of class two, eight of class three, eight of class four, and one chief clerk, in lieu of those now authorized by law; and one of the said clerks of class four shall give

1 *Annual Report*, American Historical Association, 1899, p. 641.

2 The Biennial Registers and Department Registers furnish the personnel of the Department.

3 10 *Stat.*, 209.

bonds as required by the Independent Treasury Act, and make the disbursements for the department, and superintend the northeast executive building, and shall receive therefor two hundred dollars per annum, in addition to his salary as clerk of class four: *Provided* that the increased salary hereby allowed the chief clerk shall be construed to take effect from the first of July, 1853, and be paid accordingly.[1]

The Act of March 3, 1853, had provided for chief clerks of the Departments, each at $2,200 per annum. The rates of pay of the classes of clerks were fixed by the same act as: class one, $900 per annum; class two, $1,200; class three, $1,500; class four, $1,800. The salary of class one was raised to $1,200, of class two to $1,400, and of class three to $1,600 by Act of April 22, 1854, section 1.[2]

The bureaus of the Department had always been subordinate to the Chief Clerk, and his superior authority was specifically set forth in the Act of August 26, 1842, which is still in force:

> Each Chief Clerk of the several departments, shall supervise, under the direction of his immediate superior, the duties of the other clerks therein, and see that they are faithfully performed.[3]

Excluding from the count all officers above the rank of chief of bureau and below that of clerk and all temporary employees, it appears that the number of regular clerks in the Department in 1865 was twenty-five; in 1870, the same; in 1876, forty-five; in 1880, the same; in 1892, sixty-one; in 1898, sixty-five; in

[1] 10 *Stat.*, 669.
[2] 10 *Stat.*, 276.
[3] R. S., U. S., sec. 173.

1904, eighty-five; in December, 1910, one hundred and fifty-six.

Following the subdivisions in detail: in 1837 the office of librarian was separated from that of translator and in 1839 no one held the title of Librarian. In that year a Bureau of Exequaturs and Commissions was added, which in 1841 disappeared, and the translator and librarian were again combined. This arrangement was changed in 1847 when the commission clerk and librarian were combined. In 1849 the "Claims Clerk" was added, ranking above the bureaus, and the translator and librarian were again combined, the commission clerk's office being made separate. In 1853 the librarian was left out of the arrangement, and in 1855, under the classification required by law, all the bureaus disappeared from the official roster, which specified the following order: The Secretary, the Assistant Secretary, Chief Clerk, clerks of the fourth class, clerks of the third class, clerks of the second class, clerks of the first class, superintendent of commercial statistics, under resolution of Congress at $2,000 per annum, superintendent of the packing room, messenger, assistant messenger, and watchmen. In 1857 the clerks were preceded by a disbursing clerk and the superintendent of statistics, both having been provided for by law. Thus the order continued until 1867, when the Second Assistant Secretary and examiner of claims were put in above the Chief Clerk, the superintendent of the packing room being omitted, and the commissioner of immigration was added, with the superintendent of immigra-

tion stationed at New York under him. In 1869 the examiner of claims and superintendent of statistics were dropped.

Notwithstanding the omission of the bureaus from the official list from 1855 to 1870, they had, in fact, continued to exist as a necessity in the transaction of the Department's business, and the chiefs continued to enjoy their titles and authority in Department administration.

Hamilton Fish became Secretary of State March 11, 1869, and, acting under the general authority conferred upon him by law as the head of the Department, he reorganized the staff, and in 1870 formally divided it as follows:

Chief Clerk's Bureau. It was to have custody of the archives and rolls, distribution of the mail, and indexing of the records. The clerks in the bureau were designated: senior index clerk, two index clerks, a keeper of rolls, and an assistant keeper of rolls. The whole force of the bureau was six.

First Diplomatic Bureau. It was to have charge of diplomatic correspondence with Austria, Belgium, Denmark, China, France, Great Britain, Japan, the Netherlands, North Germany, Portugal, Spain, Sweden and Norway, and Switzerland. It was under the superintendence of the Assistant Secretary, and the duties were performed by the chief of bureau and two clerks.

Second Diplomatic Bureau. It had diplomatic correspondence with Latin-American countries, the Barbary States, Egypt, Greece, the Hawaiian Islands,

Italy, Liberia, Russia, and Turkey, and was under the superintendence of the Second Assistant Secretary. The duties were performed by the chief of bureau and two clerks.

First Consular Bureau. It had correspondence with consuls in the countries which were also under the jurisdiction of the First Diplomatic Bureau, and was under the superintendence of the Assistant Secretary. A chief of bureau and three clerks performed the duties.

Second Consular Bureau. It had correspondence with consuls in the countries which fell under the jurisdiction of the Second Diplomatic Bureau and was under the superintendence of the Second Assistant Secretary. A chief of bureau and two clerks performed the duties.

Law Bureau (from the Department of Justice). It comprised simply the Examiner of Claims, whose duty it was to examine all legal questions submitted to him by the Secretary or the Assistant Secretaries.

Bureau of Accounts. It was managed by the "disbursement clerk" and had the custody and disbursement of all the Department appropriations, as well as the care of the building and the property of the Department.

Statistical Bureau. The head of the bureau was termed "Librarian" and he had one clerk under him. The duties were to care for the printed books and pamphlets, and to prepare the reports on commercial relations.

Translations. The bureau consisted of the trans-

lator, whose duty it was to make translations on the order of any of the Secretaries or the Chief Clerk.

Pardons and Commissions. There was a chief of bureau and one clerk. The bureau had charge of the preparation of commissions and warrants of pardon, applications for office and correspondence relating thereto.

Domestic Records. One clerk comprised the bureau, his duty being to attend to correspondence with territorial officers and miscellaneous correspondence not connected with the diplomatic or consular service. The business was under the superintendence of the Assistant Secretary.

Passport Bureau. In charge of it was the "passport clerk," and his duties were the issuance and recording of passports and collection of the internal revenue tax on passports.

Telegraph. The telegraph operator received and sent messages ordered by any of the Secretaries or the Chief Clerk.

The unassigned clerks were employed on the general work of the Department under the Chief Clerk, who might also require a clerk in one bureau to do the work of another bureau, whenever such a course seemed to him to be necessary.

The arrangement of this year is notable among other features because it gave definite assignment of duties to the Assistant Secretary and the Second Assistant Secretary, the former superintending the First Diplomatic Bureau and First Consular Bureau, beside the Bureau of Domestic Records, and the latter the Second

Diplomatic Bureau and Second Consular Bureau, the intention evidently being to make a division on geographical lines. The arrangement continued from 1870 to 1873, when it ceased, and there was no formal assignment of duties for the Assistant Secretaries after that, until the arrangement was made in recent years placing the Third Assistant Secretary at the head of the Division of Far Eastern Affairs.

Under date of October 20, 1869, Secretary Fish prescribed "Regulations of the Department of State." The office hours were to be from 9.30 a.m. to 4 p.m., or later if business required, and at least one clerk must remain in each bureau until the mail for the day was signed. A daily account must be kept of the time each clerk might be absent from his work; clerks must not visit each other during office hours; no information whatever concerning department business should be conveyed to outsiders.

The change in the working hours of the Department was not required by law. The Act of June 20, 1874,[1] did, in fact, give the heads of departments authority to require such hours of work from the clerks as they might deem necessary, but the Act of March 3, 1883,[2] specified that at least seven hours of work be required. This was construed for twenty years as requiring attendance at the Department from nine o'clock in the morning till four in the afternoon, half an hour being allowed for luncheon; but some question having arisen as to whether the luncheon allowance did not

[1] 18 *Stat.*, 109.
[2] 22 *Stat.*, 563.

make the working day six and a half hours, by President Roosevelt's order in 1904 the hours of work were extended to four thirty o'clock in the afternoon, the order for the Department of State being dated February 4. The old Department of Foreign Affairs had been open for business from nine o'clock in the morning till six o'clock in the evening; but there had been a liberal allowance of time for dinner early in the afternoon.

In 1872 the organization of the Department was modified by Secretary Fish by changing the Domestic Records Bureau to the Territorial and Domestic Records Bureau, and a separate mail division was added. In 1873 the separate office of keeper of rolls was created, to have custody of treaties, rolls, old archives, archives of international commissions, and to see to the promulgation of laws and treaties. In this year came the first recognition by law of the bureaus by the Act of March 3, 1873, section 3,[1] allowing an annual salary of $2,400 each to the chief of the Bureau of Accounts, of the Bureau of Indexes and Archives, and of the First and Second Diplomatic and Consular Bureaus. The Department adjusted itself to the act, and the Chief Clerk no longer had a bureau, but from his office was organized the Bureau of Indexes and Archives, with a chief and three clerks, having the duty of opening the mail, indexing it, preserving the archives, and answering calls for papers. The bureaus which had not received legal recognition continued in existence, the position of chief

[1] 17 *Stat.*, 509.

being filled by a clerk, usually, but not always, of the fourth class. The Act of June 20, 1874,[1] allowed only one chief of the Diplomatic and one chief of the Consular Bureau, adding to the list, however, the chief of the Bureau of Rolls and Library. As had been the case under the arrangement of 1833, the consolidated Diplomatic Bureau was divided into geographical divisions, A, B, and C, each division having in its charge correspondence with a separate group of countries, and the same course was followed with the consular bureau, a system which has prevailed up to the present time. In order to give full sanction to the Secretary to subdivide his Department, the Act of 1874 provided:

> That the Secretary of State may prescribe duties for the Assistant Secretaries, the Solicitor, not interfering with his duties as an officer of the Department of Justice, and the clerks of Bureaus, as well as for all the other employees in the Department and may make changes and transfers when in his judgment, it becomes necessary.

When the Act of March 3, 1873, recognizing the bureaus of the Department, became effective on July 1, 1873, commissions signed by the Secretary of State were given to the chiefs of the bureaus named in the law; but after the passage of the law of 1874 again providing for bureau chiefs, the question was raised whether they should not be nominated by the President to the Senate for confirmation. The law officer of the Department being called on for an opinion, ruled, under date of June 26, 1875, that as the Consti-

[1] 18 *Stat.*, 90.

tution provides that the President "shall appoint . . . . all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law" the chiefs of bureau, who were not included under the general head of clerks, should be appointed by the President.[1]

Accordingly, under date of July 1, 1875, the chiefs of the bureaus named in the law received commissions signed by the President. Congress was not in session at the time, but their names were sent to the Senate for confirmation when it convened the following December, and full commissions were issued after their confirmation.[2] But after these first Presidential appointments of bureau chiefs there were no more for eighteen years, all vacancies which occurred after the first appointments being filled, as they had been originally, by direct appointment of the Secretary of State. The opinion of the law officer was, in fact, disregarded, until Walter Q. Gresham, who was Secretary of State from March 3, 1893, to May 28, 1895, invoked it in 1894, and the President nominated Pendleton King to be chief of the Bureau of Indexes and Archives.[3] In 1896 Secretary Olney referred the question of the proper form of appointment to the Attorney-General for an opinion, who declared chiefs of bureaus were clerks in the eye of the law and entitled only to departmental commissions.[4]

[1] Opinions and Reports of Henry O'Conner, Examiner of Claims, Vol. 6, p. 388, Dept. of State MSS., Solicitor's Office.

[2] Bureau of Appointments Records.

[3] *Ibid.*

[4] *Ante*, p. 98.

The Act of August 15, 1876,[1] provided for only five chiefs of bureau and the translator, and decreased the salary of each to $2,100. The compensation of the chief of the Bureau of Statistics became, therefore, that of a clerk, but the bureau was continued as a Department arrangement. In 1878, Act of June 19,[2] provision was made for only four chiefs of bureau beside the translator, and the chief of the Bureau of Rolls and Library was dropped, but a clerk was appointed librarian with the same functions as had pertained to the chief of bureau. In 1881 the Bureau of Statistics was restored to the salary list,[3] and in 1882[4] the Bureau of Rolls and Library. This arrangement continued undisturbed till the Act of May 28, 1896,[5] allowed another bureau, and the Bureau of Commissions and Pardons was raised to the same level with the other bureaus in compensation, the chief being denominated the appointment clerk and the bureau being named the Bureau of Appointments.

By the terms of the law the chief of the Bureau of Accounts received an additional compensation of $200 per annum as disbursing clerk, and the Act of March 3, 1903,[6] gave the chief of the new Bureau of Trade Relations $2,250 per annum.[7] The following year the

1 19 *Stat.*, 148.

2 20 *Stat.*, 183.

3 Act of March 3, 21 *Stat.*, 391.

4 Act of August 5, 22 *Stat.*, 225.

5 29 *Stat.*, 147.

6 32 *Stat.*, 1082.

7 This was owing to a mistake on the part of the appropriations committee of the House, who supposed the compensation of the Chief of the Bureau of Foreign Commerce had been $2,250.

appropriation act gave him the same sum as the other bureau chiefs. The Act of February 26, 1907,[1] provided for two chiefs of bureau at $2,250 per annum, leaving the others at the old rate of $2,100, except the chief of the Bureau of Accounts, who received his regular extra compensation. The selection of the two bureaus to receive the higher pay was left to the Secretary of State, who chose the Diplomatic and Consular Bureaus as the beneficiaries.

The oldest subdivisions of the Department are the Diplomatic and Consular Bureaus. Its foreign duties were in the beginning almost exclusively diplomatic, the correspondence with consuls being inconsiderable.

There was no consular system before the adoption of the Constitution although there were several consuls; but in 1790, Thomas Jefferson appointed sixteen consular officers; and on August 26, 1790, he instructed them to report to the Department on political, shipping, and commercial questions. On April 14, 1792, a law was passed defining a consul's duties. The number of consuls steadily increased and there was a general classification by the Act of August 18, 1857, which was modified from time to time until the passage of the act reorganizing the service.[2] The separation between the diplomatic and the consular correspondence must have been soon after the appointment of consuls began, and the creation of the Consular Bureau had actually become a fact before it received desig-

[1] 34 *Stat.*, 948.

[2] See Wilbur J. Carr's article on "The American Consular Service" in *American Journal of International Law*, 2: 89.

nation. In the assignment of work, however, the Diplomatic Bureau preceded it.

The first subdivision of the Department to be recognized by law, except the Patent Office, was the Statistical Office, which became the Bureau of Statistics, which in its turn became the Bureau of Foreign Commerce, which in its turn became the Bureau of Trade Relations. The Act of August 16, 1842,[1] required the Secretary of State to report to Congress annually all changes and modifications in foreign commercial systems. There had been occasional calls by Congress for commercial information from the Secretary of State before this, and the same year that the act was passed, Daniel Webster, Secretary of State, recommended to Congress that the work of arranging and condensing the information received from our consuls abroad on commercial subjects be entrusted to one person, who should also have charge of the correspondence. No Congressional action having been taken, Mr. Webster exercised his own authority and assigned one of the extra clerks to the duty. In the letter already quoted from Secretary Calhoun to the Ways and Means Committee he said:

> The Act of August 16, 1842, makes it the duty of the Secretary of State, to lay before Congress at the commencement of each session, an account of such changes and modifications, in the commercial systems of foreign nations by treaties, duties, and imports, and other regulations as may have come to the knowledge of the Department. Under this Act and under the various calls made by the Senate and House of Representatives for information respecting our

[1] 5 *Stat.*, 507.

commercial relations with foreign nations, an irregular commercial and statistical bureau has grown up in the Department, composed exclusively of extra clerks. It is very desirable that there should be a permanent bureau of this kind connected with the Consular Bureau; and as the clerks in this bureau must, for the proper performance of their duties, have a knowledge of the various foreign languages and a minute acquaintance with foreign moneys, weights, and measures, together with such other general information, they ought to be suitably compensated for their labors.

Both the British and French Governments have such bureaus, which make very copious reports, on whatever is supposed to be of interest, in the commercial relations of other countries. The knowledge, which they seem to appreciate so highly, cannot be of less importance to us than it is to them.

Under these circumstances I submit to your Committee and through you to the House of Representatives the propriety of taking such measures as will (without increasing the expenses of the Government) make it practical to effect a better arrangement of the Department in respect to the clerks employed, than exists at present. I would especially suggest the propriety of passing an Act, to authorize the appointment of a clerk with a salary of $1,450 per annum to take charge of a Statistical and Miscellaneous Bureau, and also of making the usual annual appropriation in the general appropriation Bill, of $2,000 for extra clerk hire and copying.

As Congress still neglected to make the necessary provisions, the status of the bureau remained undefined, but in 1854 the Department organized a "Statistical Office" and gave the title of superintendent to an extra clerk at $2,000, who was put in charge of it, Secretary Calhoun's idea of making it also a miscellaneous bureau having in the mean time

been abandoned. In 1856 the Committee on Commerce of both the Senate and House recommended legislative approval of the arrangement and it was provided for by the Act of August 18, 1856,[1] with a "Superintendent of Statistics" at $2,000 per annum. Edmund Flagg was commissioned under that designation August 18, 1856,[2] but the Act of 1869 omitted an appropriation for the payment of the superintendent. It was continued as a Department subdivision and in Mr. Fish's arrangement of 1870 was denominated the Statistical Bureau, the chief being termed the librarian, until the following year when he received the title of chief of bureau. Notwithstanding the omission of appropriation for the chief in 1876, the bureau continued with a clerk as chief, until the compensation was restored by the Act of 1881.

The circumstances attending the change of the bureau's name are brought out by the following correspondence:

DEPARTMENT OF STATE,
WASHINGTON, *June 30, 1897.*

HONORABLE JOHN SHERMAN,
Secretary of State.

Sir:

I have the honor to call your attention to the clause in the diplomatic and consular appropriation bill for the fiscal year ending June 30, 1898, approved February 20, 1897, which provides for the publication of diplomatic, consular, and other commercial reports. (See page 590, United States Statutes at Large, fifty-fourth Congress, second session.) The paragraph reads as follows:

[1] 11 *Stat.*, 139.

[2] Bureau of Appointments Records.

"Preparation, printing, publication, and distribution, by the Department of State, of the diplomatic, consular, and other commercial reports, twenty-five thousand dollars; and of this sum the Secretary of State is authorized to use not exceeding three thousand one hundred and twenty dollars for services of employees in the Bureau of Statistics, Department of State, in the work of compiling and distributing such reports, and not exceeding two hundred and fifty dollars in the purchase of such books, maps, and periodicals as may be necessary to the editing of diplomatic, consular, and other commercial reports: Provided, that all terms of measure, weight, and money shall be reduced to, and expressed in, terms of the measure, weight and coin of the United States, as well as in the foreign terms; that each issue of consular reports shall not exceed seven thousand copies. And provided further, that the Secretary of State, be and he is hereby, authorized to change the name of the Bureau of Statistics to the Bureau of Foreign Commerce, and that the foregoing provision shall apply with the same force and effect to the Bureau of Foreign Commerce as to the Bureau of Statistics."

You will perceive that the Secretary of State is authorized by the foregoing to change the name of the Bureau of Statistics of this Department to the Bureau of Foreign Commerce, and that the provision for the maintenance of the Bureau of Statistics is made to apply with the same force and effect to the Bureau of Foreign Commerce. As the appropriation becomes available on the 1st of July, I respectfully ask authority from you to carry the legislation specified into effect. The reasons for making the change as stated to Congress, and approved by that body, are:

(1) The confusion arising from the fact that there are three bureaus of statistics in the Executive Departments, viz:

Bureau of Statistics, Department of State;

Bureau of Statistics, Treasury Department;

Bureau of Statistics, Department of Agriculture.

Shortly after taking charge of this Bureau, I became

impressed with the fact that the general public was unable to discriminate between the various bureaus of the same name, and that unnecessary labor and delay resulted.

(2) The name of Bureau of Statistics does not properly denote the functions of this Bureau, which is exclusively commercial in its character, its work being that of collecting, compiling, and distributing the commercial reports of our diplomatic and consular officers. There is a wide range of statistics with which the Bureau has nothing to do, and its designation as a Bureau of Statistics is, therefore, misleading. The use of the words Bureau of Foreign Commerce, on the other hand, besides correctly indicating the character of the work, is likely, in my judgment, to impress upon the public mind the importance of the commercial features of this Department.

In view of these considerations, I submit the draft of an order for your signature.

Respectfully yours,

FREDERIC EMORY,
Chief, Bureau of Statistics.

DEPARTMENT OF STATE,
WASHINGTON, *July 1, 1897.*

Under the authority conferred upon me by Chapter 268, United States Statutes at Large, Fifty-fourth Congress, second session, under the heading "Publication of Diplomatic, Consular, and other commercial reports," the name of the Bureau of Statistics of this Department is hereby changed to the Bureau of Foreign Commerce and the title of the Chief of the Bureau of Statistics shall hereafter be Chief of the Bureau of Foreign Commerce.

JOHN SHERMAN,
Secretary of State.[1]

[1] The letter and order may be found in the Consular Reports for September, 1897, No. 204, Vol. LV.

In creating the Department of Commerce and Labor in 1903,[1] one of the objects sought was to concentrate the commercial activities of the government by transferring to the new department various commercial bureaus in other departments. It was provided:

> That the Bureau of Foreign Commerce, now in the Department of State, be, and the same hereby is, transferred to the Department of Commerce and Labor and consolidated with and made a part of the Bureau of Statistics, hereinbefore transferred from the Department of the Treasury to the Department of Commerce and Labor, and the two shall constitute one bureau, to be called the Bureau of Statistics, with a chief of the bureau.

The State Department was still to continue to collect commercial information from consuls, and it became necessary to organize a new bureau to take the place of that transferred to the new department. The chief of the bureau wrote the following letter on the subject to the Secretary of State:

DEPARTMENT OF STATE,
May 19, 1903.

HONORABLE JOHN HAY,
Secretary of State.

My dear Mr. Secretary:

In view of the prospective transfer of this bureau to the Department of Commerce July 1 next, it seems to me desirable that an instruction be sent to consular officers as soon as practicable advising them of the change and prescribing the methods to be pursued in making their reports. It is necessary, before such instruction can be prepared, that a name be chosen for the new bureau in this Department which is to have supervision of the consular work, and to define its

[1] Act of February 14, 32 *Stat.*, 827.

duties. There are functions other than those stated in the legislative provision for the new bureau which, it seems to me, should be allotted to it, in order that the work now performed by the Bureau of Foreign Commerce and still devolving upon this Department after the transfer, shall not be interrupted. I refer more particularly to the transmittal of consular reports to various branches of the Government—such as the Treasury, Department of Agriculture, Marine Hospital Service, etc.,—other than the Department of Commerce; the answering of questions as to commercial relations (including construction of tariffs, etc.) with foreign countries, and the compiling of commercial information for the use of the Department of State, in the consideration of questions arising in our foreign intercourse.

Your authority to give a name to the bureau and to extend its scope, is in my judgment amply supported not only by the clause in the legislative, executive and judicial appropriation act approved June 20, 1874, which provides that the Secretary of State may prescribe duties for all employees of the Department, but by precedents in similar cases set by Secretary Marcy in 1856 and by Secretary Fish in 1874 in creating respectively a "Statistical Office" and a Bureau of Statistics, though only the *heads* of such subdivisions had been provided for by legislation.

For the reasons stated, I suggest the name "Bureau of Commercial Relations" for the new bureau. The only possible objection to it that I can foresee is found in the fact that the annual reports of the consuls are known as "Commercial Relations," but it seems to me to be advisable to reserve this title for the Department of State, as the Department of Commerce is not empowered to deal with our official relations, commercial or otherwise, with foreign governments, and I assume that it will publish the annual reports of the consuls as such, and could not, without encroaching upon the sphere of this Department continue to use the broader title "Commercial Relations." Moreover, the retention of the title

would permit you (should you so elect) to continue to discharge the duty prescribed for the Secretary of State of annually transmitting to Congress a report on changes in the commercial systems of other nations "whether by treaties, duties on imports and exports or other regulations," etc., etc. (Revised Statutes, Section 208). This mandate does not seem to me to have been repealed or in any way impaired by the Act creating the Department of Commerce, and it might be availed of, with great advantage, to bring important facts to the attention of Congress, without confusing or duplicating the work of the new Department. By pursuing this course, also, the volume of diplomatic correspondence known as "Foreign Relations" might be relieved of purely commercial matter and a more expeditious publication could be secured.

Respectfully,

FREDERIC EMORY,
Chief, Bureau of Foreign Commerce.

Secretary Hay's order follows:

The above recommendations, with the exception of the word "Commercial" in the title for the new bureau, are approved. Under authority conferred upon the Secretary of State by Section 11 of the Act establishing the Department of Commerce and Labor, approved February 14, 1903, a bureau of the Department of State to be known as the Bureau of Trade Relations shall be created and organized July 1, 1903, with the following personnel, as provided for in the Act making appropriations to supply deficiencies, etc., approved March 3, 1903:

Chief of Bureau, Frederic Emory.
Clerk class two, Maud Stalnaker.
Clerk class one, Andrew Marschalk.
Assistant Messenger, Robert P. Leftridge.

These appointments to take effect upon resignation by the incumbents of their present positions.

The functions and duties of the Bureau of Trade Relations

shall be those defined in the foregoing letter of the Chief of the Bureau of Foreign Commerce.

JOHN HAY.

DEPARTMENT OF STATE,
May 28, 1903.

The Passport Bureau, having been created in Mr. Fish's arrangement of 1870, continued in charge of the passport clerk without the compensation of a bureau, until in 1898 it was placed under the Bureau of Accounts, because the bond of the chief of that bureau was made to cover the fees for passports which the passport clerk collected. This arrangement was changed in 1902 by the following order of Secretary John Hay:

July 3, 1902.

The Passport Division, now a part of the Bureau of Accounts, is hereby separated from that Bureau and placed directly under the supervision of the Secretary, the Assistant Secretaries and the Chief Clerk, and the Passport Clerk shall hereafter be immediately in charge of the Passport Bureau. Such letters and circulars relating to the passport business of the Department as have heretofore been signed by the Chief of the Bureau of Accounts shall hereafter be signed by the Chief of the Passport Bureau.

There shall be no change in the system of accounting for the passport fees, which shall, as heretofore, be transferred to the Bureau of Accounts by the Passport Bureau at the close of each day's work, the Chief of the Bureau of Accounts receipting therefor to the Chief of the Passport Bureau, who is forbidden to retain any of such fees in his Bureau from one day to another.

JOHN HAY.

DEPARTMENT OF STATE.

By the appropriation Act of 1904, March 18,[1] provision was made for eight bureaus and the chief of the Passport Bureau was given the same compensation as the other bureau chiefs.

The following memorandum and order show why the title of the bureau was changed to the Bureau of Citizenship:

DEPARTMENT OF STATE,
April 23, 1907.

To the Secretary:—

As each Bureau in the Department should be designated by a title signifying the nature of its duties as comprehensively as possible, I am prompted to ask you to consider whether the name of this Bureau should not be changed from "Passport Bureau" to "Bureau of Citizenship." For some years past, all communications to the Department pertaining to citizenship and protection abroad have been sent to this Bureau, which prepares reports, drafts, communications and instructions and answers directly a great many communications on those subjects, and those answers would more appropriately come from a Bureau of Citizenship than from a Passport Bureau.

A recent ruling of the Attorney General requires that each case of false naturalization sent by this Department to the Department of Commerce and Labor, whence it goes to the Department of Justice to be carried into the court which issued the certificate, shall be accompanied by an affidavit from an officer of this Department, and the Solicitor says the affidavit may properly be made by the Chief of this Bureau. There are a great many of these cases and the affidavits would more properly come from a Citizenship Bureau than a Passport Bureau. Section 15 of the Naturalization Law entails this business upon us, and the Expatriation Act of March 2, 1907, requires that duplicates of all

[1] 33 *Stat.*, 97.

registrations and evidence to conserve citizenship be sent to us. The recent instructions which you signed show our business will increase greatly in the future in a direction which has only a collateral connection with passports.

I should add that all the Bureaus of the Department were created by order of the Secretary of State and that none of them are appropriated for by name. The power to create a Bureau, abolish one or change its name rests absolutely with the Secretary of State. A recent instance of change of name is found in the Bureau of Trade Relations which was the Bureau of Statistics until Secretary Sherman changed the name to the Bureau of Foreign Commerce, this name again being changed to the present one, the last named being rendered necessary by the transfer of the publication of the consular reports to the Department of Commerce and Labor.

If the proposition of changing the name of this Bureau meets with your approval an order requiring the change, similar to that made in the case of the Bureau of Trade Relations, will be drawn up for your signature.

Respectfully submitted,

GAILLARD HUNT,

Chief, Passport Bureau.

ORDER BY THE SECRETARY OF STATE.

BUREAU OF CITIZENSHIP.

The Passport Bureau shall hereafter be designated the Bureau of Citizenship and the Chief of the Bureau is hereby authorized and empowered to receive and attest all oaths, affirmations or affidavits required to be made in passport cases, in accordance with the requirements of Section 212 of the Revised Statutes of the United States.

It shall be the duty of the Bureau of Citizenship to examine all applications for passports, issue passports and conduct the correspondence in relation thereto; to affix authentications and conduct the correspondence in relation thereto; to receive and file duplicates of evidence, registra-

tion or other acts required by the Act approved March 2, 1907, in reference to the expatriation of citizens and their protection abroad, and to keep records of registration of American citizens abroad and of expatriation required by the said Act, and to conduct all necessary correspondence in relation thereto.

ELIHU ROOT.

DEPARTMENT OF STATE,
Washington, May 31, 1907.

In 1909, under the Secretaryship of Philander C. Knox, was effected a reorganization of the Department. Up to this time the subdivisions had been upon simple lines. There was the correspondence with diplomatic and consular officers, the domestic business, the duty of caring for the archives and books, of keeping the Department's accounts, and making appointments. The division of labor in the Department had reference to these functions, and two additional bureaus had been added whose duties related to particular subjects—the Bureau of Trade Relations and the Bureau of Citizenship. This arrangement was not changed, but upon it were superimposed five new divisions, all but one organized upon a geographical basis. They were: the Division of Latin-American Affairs, the Division of Far Eastern Affairs, the Division of Near Eastern Affairs, the Division of Western European Affairs, and the Division of Information. Still another change was made in dividing the officers above the clerks and below the Secretary and Assistant Secretary, into three classes: "Administrative Officers," composed of the

Second Assistant and Third Assistant Secretaries and the director of the Consular Service; "Advisory Officers," composed of the Counselor of the Department, the Solicitor and the assistant solicitors, and presumably the resident diplomatic officer; and "Other Administrative Officers," composed of the Chief Clerk, the chiefs of divisions and the chiefs of bureaus. In addition to these were five "Officers engaged in important drafting and specialization."

This new arrangement was separate from the regular department classification. It was presaged by an unsuccessful effort to obtain a conservative expansion of the Department by Congressional enactment. On January 12, 1909, Mr. Knox, then the junior Senator from Pennsylvania, offered as an amendment to the pending Department appropriation bill a provision for an Under-Secretary of State and a Fourth Assistant Secretary, which would have given six Secretaries at the head of the Department. The Committee on Foreign Relations reported the amendment favorably on January 13 and it was adopted by the Senate, but failed of final acceptance because of the opposition it encountered in the House of Representatives. At the special session of Congress, however, the following provision was passed on August 5, 1909:

> For defraying the necessary expenses incurred in connection with foreign trade relations which come within the jurisdiction of the Department of State, under tariff legislation and otherwise, and in negotiation and preparation of treaties, arrangements, and agreements for the advancement

of commercial and other interests of the United States, and for maintenance of a division of Far Eastern Affairs in the Department of State, including the payment of necessary employees at the seat of government or elsewhere, to be selected, and their compensation fixed, by the Secretary of State and to be expended under his direction, fiscal year nineteen hundred and ten, one hundred thousand dollars. A detailed statement showing expenditures, including salaries or rates of compensation paid, under this appropriation shall be reported to Congress by the Secretary of State on the first day of each regular session; and estimates for further appropriations hereunder shall include in detail salaries of all persons to be employed and paid in the Department of State at Washington, District of Columbia.

The new divisions were made by authority of this act and reported to Congress at the next regular session; where they received the sanction of that body in the appropriation Act of June 17, 1910. The appropriation was not, however, included in the paragraph devoted to the usual provision for the Department, that paragraph remaining in the same form as before, but was added as a wholly separate paragraph under the caption: "Advancement of commercial and other interests as provided in the Act approved August 5, 1909." It allowed the director of the Consular Service at $4,500; Counselor and resident diplomatic officer at $7,500 each, to be appointed by the Secretary of State; eight officers to aid in important drafting work, "four of whom should receive $4,500 each and four $3,000 each, to be appointed by the Secretary of State and to be employed on tariff, treaty and trade relations and

negotiations, one of whom might be assigned to duty as Chief of the Division of Far Eastern Affairs, of Latin-American Affairs, of Near Eastern Affairs and of European Affairs or upon other work in connection with our foreign relations."

Certain features of this present arrangement were without precedent. The compensation of the Counselor of the Department and the resident diplomatic officer, who were appointed by the Secretary of State, was greater than that of the Assistant Secretaries or the Solicitor, who were appointed by the President, and the chiefs of divisions and special officers all received higher compensation than the chiefs of bureaus.

The organization of the Department under this and the regular act was: the Secretary and Assistant Secretary; the "Administrative officers," being the Second Assistant Secretary, the Third Assistant Secretary "with the added duty of Chief, Division of Western European Affairs," the director of the Consular Service, and the Chief Clerk; the "Advisory Officers," being the Counselor for the Department of State, the Solicitor and the foreign trade advisers; the "Other Administrative Officers," being in the following order: Chief of the Division of Latin-American Affairs, Division of Far Eastern Affairs, Diplomatic Bureau, Consular Bureau, Bureau of Appointments, Bureau of Citizenship, Bureau of Indexes and Archives, Bureau of Accounts and Disbursing Clerk, Bureau of Rolls and Library, Division of Information, translator, assistant solicitor, private secretary to the Secretary of State, assistant chiefs

of the Division of Latin-American Affairs, assistant chief of the Division of Far Eastern Affairs, law clerks, clerk to the Secretary of State, assistant law clerk, and the classified clerks. The duties of the old Bureaus were what they had been before. The Division of Latin-American Affairs had "Diplomatic and Consular correspondence on matters other than those of an administrative character, in relation to Mexico, Central America, Panama, South America and the West Indies"; the Division of Far Eastern Affairs had such duties with respect to "Japan, China and leased territories, Siberia, Hongkong, French Indo-China, Siam, Straits Settlements, Borneo, East Indies, India, and, in general, the Far East"; the Division of Near Eastern Affairs had such duties with respect to "Germany, Austria-Hungary, Russia, Roumania, Servia, Bulgaria, Montenegro, Turkey, Greece, Italy, Abyssinia, Persia, Egypt, and colonies belonging to countries in this series"; the Division of Western European Affairs had such duties with respect to "Great Britain (Canada, Australia, New Zealand, and British colonies not elsewhere enumerated), Portugal, Spain, France, Morocco, Belgium, the Kongo, Switzerland, Norway, Sweden, the Netherlands, Luxemburg, Denmark, and Liberia"; the Division of Information had the "preparation and distribution to the foreign service of diplomatic, commercial and other correspondence and documents important to their information upon foreign relations and editing 'Foreign Relations.' "[1]

[1] Dept. Register, October 15, 1912.

From the arrangement disappeared the Bureau of Trade Relations. The appropriations act for the year 1912 omitted the appropriation for the chief of that bureau, although it continued the same number of clerks. The two trade advisers, therefore, took over the duty which had formerly been discharged by the chief of the bureau, and it became the "office of Foreign Trade Advisers."

Another change was the creation of the definite rank of assistant chief of each bureau and division, filled, however, by a clerk in the classified service.

In 1913 a further modification was made in this arrangement. The classification of the higher officials as "administrative," "advisory," etc., was abandoned and they were given in the order of their rank, which was changed. Next to the Secretary came, instead of the Assistant Secretary, the Counselor, and next to the Counselor the Solicitor, followed by the three Assistant Secretaries, the Director of the Consular Service and the Chief Clerk, next the foreign trade advisers, then the Divisions of Latin-American Affairs, Far Eastern Affairs, Near Eastern Affairs, and Bureaus in the same order as had previously been maintained. The Division of Western European Affairs was placed under the Third Assistant Secretary.

CHAPTER X

APPOINTMENTS. THE SEAL. COMMISSIONS.

HAVING considered the sometime and occasional duties of the Department, and certain contingent duties which it has never been called upon to perform, we may now advance to a consideration of its habitual functions.

The organic act of the Department prescribed that the Secretary of State should keep "the seal of the United States." It is the mark of the supreme authority of the United States, and before the government went into operation under the Constitution, was in the custody of the Secretary of Congress, being used to verify all important acts, whether executive or legislative; but the debate on executive departments in the first Constitutional Congress indicated that Congress did not contemplate keeping the seal any longer, and thought it would pass to the custody of the Executive. The President did, in fact, take it under his control as soon as he assumed office and before legal provision had been made for its custody.

By the terms of section 7 of the Act of September 15, 1789, the Secretary of State became the keeper of the seal, and the fourth section of the act provided:

> . . . . that the said secretary . . . . shall make out and record, and shall affix the said seal to all civil commissions to officers of the United States to be appointed by the President,

by and with the advice and consent of the Senate, or by the President alone: *Provided,* That the said seal shall not be affixed to any commission, before the same shall have been signed by the President of the United States, nor to any other instrument or act, without the special warrant of the President therefor.

And the third section said:

That the seal heretofore used by the United States in Congress assembled, shall be, and hereby is declared to be, the seal of the United States.

The device adopted for the seal by the Continental Congress was, therefore, continued, and the Secretary of State became the custodian of the arms of the United States.

The first committee to design the arms and seal was appointed by the Continental Congress July 4, 1776, and was composed of Benjamin Franklin, John Adams, and Thomas Jefferson.[1] The design reported by them on August 20 was not accepted, and nothing further was done on the subject until March 25, 1780, when James Lovell of Massachusetts, John Morin Scott of New York, and William Churchill Houston of New Jersey were appointed a committee to take into consideration the report of the first committee. They reported on March 10 "a device of a Great Seal for the United States in Congress assembled," and advised also: "A minature of the face of the Great Seal to be prepared of half the diametre, to be affixed as the less seal of the United States."

[1] See the *History of the Seal of the United States* (Hunt), Washington, Dept. of State, 1909.

The design submitted by this committee shared the fate of the first committee's design, and in 1782 Congress named another committee, composed of Arthur Middleton of South Carolina, Elias Boudinot of New Jersey, and John Rutledge of South Carolina, to report on the subject again. This committee called into consultation William Barton, A.M., of Philadelphia and Lancaster, a scholar and a student of heraldry, who submitted designs for both obverse and reverse. They were turned over to Charles Thomson, the Secretary of Congress, who improved upon Barton's design; and from this improvement Barton designed what is now the arms of the United States. It was adopted July 20, 1782, as follows:

On report of the secretary, to whom were referred the several reports on the device for a great seal, to take order.

The device for an armorial achievement and reverse of the great seal of the United States in Congress assembled, is as follows:

ARMS. Paleways of thirteen pieces, argent and gules; a chief, azure; the escutcheon on the breast of the American eagle displayed proper, holding in his dexter talon an olive branch, and in his sinister a bundle of thirteen arrows, all proper, and in his beak a scroll, inscribed with this motto, "*E Pluribus Unum.*"

For the CREST. Over the head of the eagle, which appears above the escutcheon, a glory, or, breaking through a cloud, proper, and surrounding thirteen stars, forming a constellation, argent, on an azure field.

REVERSE. A pyramid unfinished. In the zenith, an eye in a triangle, surrounded with a glory proper. Over the eye these words, "*annuit cœptis.*"

On the base of the pyramid the numerical letters

MDCCLXXVI. And underneath the following motto, "*Novus ordo Seclorum.*"

REMARKS AND EXPLANATION

The escutcheon is composed of the chief & pale, the two most honorable ordinaries. The pieces, paly, represent the several States all joined in one solid compact entire, supporting a chief, which unites the whole and represents Congress. The motto alludes to this Union. The pales in the arms are kept closely united by the chief and the chief depends on that Union and the strength resulting from it for its support, to denote the confederacy of the United States of America and the preservation of their Union through Congress. The colours are those used in the flag of the United States of America; white signifies purity and innocence, red, hardiness or valour, and blue, the colour of the chief signifies vigilance, perseverance and justice. The olive branch and arrows denote the power of peace and war which is exclusively vested in Congress. The constellation denotes a new State taking its place and name among other sovereign powers. The escutcheon is borne on the breast of an American eagle without any other supporters, to denote that the United States of America ought to rely on their own virtue.

Reverse. The pyramid signifies strength and duration; the eye over it and the motto allude to the many signal interpositions of Providence in favour of the American cause. The date underneath is that of the Declaration of Independence and the words under it signify the beginning of the new American æra, which commences from that date.

The reverse was not cut at the time the seal was adopted, and has never been officially used as a part of the seal. In 1882, that year marking a century of use of the seal, a great deal of popular interest was shown in it, and the government was urged by a number of people to cause the reverse to be cut. On

January 10, 1883, the Secretary of State, Theodore F. Frelinghuysen, addressed the chairman of the Committee on Appropriations of the House of Representatives, with reference to cutting a new seal, and said that the reverse ought to be cut, as "a proper respect to pay to the founders of this Government, at this time, to carry out the purpose so clearly expressed by them in Congress June 20, 1782." Accordingly, Congress appropriated, by Act of July 7, 1884, the sum of $1,000, "to enable the Secretary of State to obtain dies of the obverse and reverse of the seal of the United States."[1]

The Department called into consultation over the question of the designs Mr. Justin Winsor, the historian, Professor Charles Eliot Norton of Harvard, William H. Whitmore, an authority on heraldry, and John Denison Champlin, Jr., an authority on engraving and art. One result of the consultation was that the Department changed its intention with respect to the reverse and determined not to cut it. Mr. Winsor said, in his letter to Theodore F. Dwight, the chief of the Bureau of Rolls and Library, that it was "both unintelligent and commonplace," adding: "If it can be kept in the dark, as it seems to have been kept, why not keep it so?" All agreed that it should go unnoticed, and that part of the law of 1884, which authorized its being cut, was not made effective.

The first seal was cut in 1782 and is found on a commission dated September 16, 1782, giving full authority to General Washington to arrange for an

[1] 23 *Stat.*, 194.

exchange with Great Britain of a number of prisoners of war. This seal continued in use for fifty-nine years, when, in 1841 another one was made, Daniel Webster being the Secretary of State; but there was careless oversight of the engraving of the second seal, and in the eagle's sinister talon were placed six arrows, instead of the thirteen required by law. Nevertheless the seal continued to be used until a new one was cut in 1884, under the authority of the Act of 1884. The designer of this seal was James Horton Whitehouse, chief designer for Messrs. Tiffany & Company of New York, and the new seal was really an enlargement and a modern interpretation of the seal of 1782, that design having been determined upon as a result of the consultation with the specialists already named.

In 1902 it was determined to cut another seal, that of 1884 having become worn, and authority for the purpose was given by the Act of July 1, 1902.[1]

Before the act was put into effect, a discussion arose among the officers of the Department on the subject of the design. On one side, it was thought that the design in use was not the best obtainable and that an artist of high repute should be called in to draw a new one. In fact, there was preliminary consultation with such an artist. On the other side, it was insisted that a new design would certainly vary from the original seal; that there must be a stable interpretation of the American arms; that the seal of 1884 had been made with great care after free consultation with experts; that it had been generally accepted by other govern-

[1] 32 *Stat.*, 552.

ment departments; was used on the uniform of the army and the President's flag in the navy, and that it should be adhered to. To this conclusion the Department definitely came, after full consideration, and the expenditure authorized by Congress for cutting the seal not having been made, the amount was reappropriated by Act of July 1, 1903, in the following terms:

> To enable the Secretary of State to have the Great Seal of the United States recut from the original model, and to purchase a suitable press for its use and a cover to protect the same from dust, the sum of one thousand two hundred and fifty dollars, appropriated by the deficiency act approved July first, nineteen hundred and two "to enable the Secretary of State to have the Great Seal of the United States recut" is hereby reappropriated for the purposes above mentioned.[1]

The use of the words "original model" in the law effectually put at rest the question of making a new design; but precisely what it meant beyond this is not clear. The seal of 1782 was the original seal; and the seal of 1884 had been made to conform to it in all essentials. In default of there being any other "original model," the Department interpreted the law as meaning that there should be no departure from the design in use. The new model was accordingly cut on precisely the same model as the seal of 1884.

Another interesting discussion on the subject of the seal had occurred in 1897, between Rear Admiral French C. Chadwick, United States Navy, Chief of the Bureau of Equipment of the Navy Department,

[1] 32 *Stat.*, 1032.

and the Department of State through the Honorable William W. Rockhill, the Assistant Secretary. The Navy Department being engaged in designing the President's flag, which is the arms of the United States upon a blue field, wished their interpretation of the arms to be in accurate agreement with the seal; but in arranging the colors of the pales or stripes of the shield, the colors being the same as those used in the flag of the United States, it was questioned whether the arrangement should not be the same—that is to say, alternate red and white, instead of white and red as indicated by the heraldic lines engraved upon the seal.

Admiral Chadwick suggested to Mr. Rockhill that, as the law providing for the seal required that the colors of the shield should be the same as those of the flag, the intent was that the order of arrangement should be the same. Upon full explanation of the history of the seal, however, he agreed that the language of the law required an arrangement different from that of the flag. It was hinted that it might be proper to ask Congress to change the law so as to make the flag and arms in full agreement, but the Department has not thus far shown an inclination to favor a change. The Continental Congress having deliberately adopted the existing arrangement, putting the white, signifying purity and innocence, before the red, signifying hardiness and valor, had a purpose which should be respected.

The Act of 1789 established "the seal of the United States," using the same designation, as we shall see

presently, that Washington employed before the seal was given into the keeping of any Department. It was not clear until the passage of this act that there was to be no lesser seal. The committee of 1780 in the Continental Congress had recommended one. Vining's plan for a Home Department, offered in the House July 23, 1789, prescribed that the head of that Department was not only "to keep the great seal," but "to keep the lesser seal, and to affix it to commissions, etc." Opponents of the bill said the Secretary of Foreign Affairs could keep both seals. But when all idea of a greater and lesser seal was abandoned there ceased to be full reason for calling the only seal the great seal. The law, therefore, prescribed simply "the seal of the United States," and by the Department it is always so designated; but the appropriation acts of 1902 and 1903 described it as "the great seal," and so had the decision of the Supreme Court in 1803, in speaking of its uses. While the more accurate designation is "the seal of the United States" the use of the term "great seal" is common and not incorrect.

The law making the Secretary of State the custodian of the seal expressly forbade him to affix it to any commission until it should be signed by the President, "nor to any other instrument or act, without the special warrant of the President therefor." In the famous case of *Marbury* v. *Madison,* the Supreme Court, through Chief Justice Marshall, said in 1803:

> The signature [of the President] is a warrant for affixing the great seal to the commission, and the great seal is only to be affixed to an instrument which is complete. It attests,

by an act supposed to be of public notoriety, the verity of the presidential signature.

It is never to be affixed till the commission is signed, because the signature which gives force and effect to the commission, is conclusive evidence that the appointment is made.

The commission being signed, the subsequent duty of the Secretary of State is prescribed by law, and not to be guided by the will of the President. He is to affix the seal of the United States to the commission, and is to record it.[1]

Before the Department of State was created, the recital used on a Presidential commission was:

In testimony whereof I have caused these letters to be made patent and the seal of the United States to be hereunto affixed. Given under my hand the day of in the year of our Lord one thousand seven hundred and eighty-nine.

The President's signature followed, but there was no countersignature. This form (using, it will be observed, the term "seal of the United States") continued in use after the seal passed to the Secretary of State's custody and was not changed till August 3, 1790, when the recital was made to include the year of independence, and the instrument was countersigned by the Secretary of State. The recital on the commission to General Washington to exchange prisoners ran:

In testimony whereof we have caused these letters to be made patent and the Great Seal of the United States of America to be thereunto affixed. Witness His Excellency John Hancock President of the United States in Congress assembled the Sixteenth day of September and in the year

[1] 1 Cranch, 156.

of our Lord one thousand seven hundred and eighty-two, and of our Sovereignty and Independence the seventh.

The recital now used may be seen in the commissions cited further on in this volume.[1]

Under the law the Secretary of State has authority to affix the seal to Presidential commissions as soon as they are signed. For "any other instrument or act" he must have the special warrant of the President to affix it. The other instruments are commonly proclamations, treaties and conventions, communications to foreign rulers, full powers to American envoys and warrants of extradition. To authorize the Secretary of State to affix the seal to these it has always been construed that a separate warrant was necessary. The same form has been in use from the beginning and is as follows:

THE WHITE HOUSE [formerly EXECUTIVE MANSION]
Washington, [Date]

I hereby authorize and direct the Secretary of State to cause the Seal of the United States to be affixed to

[nature of the instrument.]

dated this day, and signed by me; and for so doing this shall be his warrant.

[Signature of the President.]

The seal was to be affixed, the law said, "to all civil commissions to officers of the United States to be appointed by the President by and with the advice and consent of the Senate or by the President alone." This left only army and navy officers to be commissioned under other seals; but as the business of the

[1] *Post*, p. 265.

government has expanded the inconvenience of having the seal attached to commissions of officers serving under other Departments than the Department of State has been recognized. By Act of March 18, 1874,[1] the commissions of postmasters were directed to be made out under the seal of the Post-Office Department; the Act of March 3, 1875,[2] placed the commissions of officers of the Interior Department under that Department; by Act of August 8, 1888,[3] all judicial officers, marshals and United States attorneys were ordered to be appointed under the seal of the Department of Justice. By executive order of President Cleveland, June 16, 1893, warrants of pardon and commutations of sentence granted to offenders convicted in the courts of the United States were thereafter to be issued under the seal of the Department of Justice.

At the present time the seal is affixed to the commissions of all cabinet officers and diplomatic and consular officers who are appointed by the President by and with the advice and consent of the Senate; to ceremonious and official communications to the heads of foreign governments; to all treaties, conventions, and formal agreements of the President with foreign powers; to all proclamations by the President; to all exequaturs to foreign consular officers in the United States who are appointed by the heads of the governments which they represent; to warrants by the President to take fugitives from the justice of the

[1] 18 *Stat.*, 23.
[2] 18 *Stat.*, 420.
[3] 25 *Stat.*, 387.

United States into custody under extradition treaties; and to all miscellaneous commissions of civil officers appointed by the President with the consent of the Senate, whose appointments are not by law directed to be signed under a different seal.

The die of the seal cut in 1782 was of brass and had no matrix. A wafer of wax was placed upon the document, a thin sheet of paper was laid over the wafer and the seal was then impressed. The documents sealed by the Continental Congress contain the seal in the upper left hand corner. This position was continued under the new government for a time, when it was changed and put at the end of the body of the document alongside of the closing formal recital and to the left of it, the Secretary of State's signature being written under the seal.

All of the committees which made designs for the seal designed a reverse and one was finally adopted. It is evident, therefore, that it was expected to use a pendant seal commonly, as most of the states did at that time; but the seal was never used pendantly by the Continental Congress. After the organization of the Department of State it was affixed pendantly to a few instruments, but a separate pendant seal was not provided until about 1856, when one was made at the State Department's instance, or upon an understanding with the Department, by Samuel Lewis, a jeweler in Washington. It was about six inches in diameter and was used only on treaties. It was kept by Mr. Lewis, being, as it appears, his property, and whenever a seal for a treaty was desired he furnished

an impression in wax with the gold or silver box in which it was to be placed, the cover of which had the arms stamped upon it in relief. The cords or ribbons passing through the document and the wax were adjusted at the Department. In 1869 the use of a separate seal for treaties was abandoned, and since then the seal has been impressed upon the document itself in all cases.

From the time the seal was made, until he turned it over to his deputy, Roger Alden, Charles Thomson, Secretary of Congress, was its actual custodian. Alden had it during the interval between the old and new government, and afterwards, as the chief of the Home Office in the Department of State, until he resigned in 1790. Thereafter the seal undoubtedly continued in the custody of the Home Office as long as that subdivision of the Department existed. In 1808 Stephen Pleasonton, who made out all civil commissions, must have been its keeper. When Secretary Louis McLane organized the Bureau of Archives, Laws and Commissions in 1833, the seal was put in that office; but in 1834, when Secretary John Forsyth enlarged the Home Bureau, he placed it there, where it remained until, in 1839, a Bureau of Exequaturs and Commissions was formed. In 1841 this bureau disappeared and the seal passed to the care of the commission clerk, who under varying designations has continued in charge of it ever since. In 1852 George Bartle of Virginia was assigned to duty as commission clerk, and had the seal under his care for forty-seven years, until his death in 1899, a longer time than any

other of its custodians. His successor was Robert Brent Mosher, until his resignation in 1905, he being succeeded by Charles Ray Dean, who resigned in 1908, he being succeeded after an interval in that year by Miles M. Shand, the present custodian.

Recording commissions, which the law requires shall be done by the Secretary of State after the affixing of the seal, is a duty which is now performed upon practically the same plan as that which existed in 1789. The commission is written in the Bureau of Appointments and sent to the President. Being returned with his signature it is countersigned by the Secretary of State, or the Acting Secretary, and the seal is then affixed. It is then recorded, and delivered to the person for whom it is intended, together with the oath of office, which he is expected to execute and return to the Department. The nomination to the Senate which precedes most Presidential appointments is in the following form, no change having been made in it, and is prepared by the Bureau of Appointments.[1]

It is as follows:

THE WHITE HOUSE, [formerly EXECUTIVE MANSION]
[Date.]

To the Senate of the United States.

I nominate [name of person and of office for which he is named.]

[Signature of the President.]

The form of commission for a cabinet officer is as follows, having been the same since the foundation of the government:

[1] Bureau of Appointments, blank forms and record books.

James Madison, President of the United States of America,

To all who shall see these presents Greeting:

Know ye, That reposing special Trust and Confidence in the Patriotism, Integrity and Abilities of Walter Jones, of Pennsylvania, I have nominated, and by and with the advice and consent of the Senate do appoint him Secretary of the Navy of the United States, and do authorize and empower him to execute and fulfill the duties of that office according to Law; and to have and to hold the said office with all the powers, privileges and emoluments to the same of right appertaining during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused these Letters to be made patent and the Seal of the United States to be hereunto affixed. Given under my hand at the City of Washington, the Twelfth day of January in the year of our Lord 1813, and of the Independence of the United States the Thirty seventh.

[SEAL]

JAMES MADISON.

By the President

JAMES MONROE, *Secretary of State.*

For a judicial officer the form was, when the commissions were made out in the Department of State:

George Washington, President of the United States of America.

To all who shall see these Presents Greeting:

Whereas the office of one of the Associate Justices of the Supreme Court of the United States is at present vacant, Know ye, That reposing special trust and confidence in the wisdom, uprightness, and learning of Thomas Johnson of Maryland, I do appoint him one of the Associate Justices of the said Supreme Court of the United States, and do authorize and empower him to execute and fulfil the duties

of that office according to the Constitution and Laws of the said United States and to have and to hold the said office with all the Powers, Privileges, and Emoluments to the same of Right appertaining, unto him the said Thomas Johnson during his good behaviour, and until the end of the next session of the Senate of the United States, and no longer.

In testimony whereof, I have caused these Letters to be made patent and the Seal of the United States to [SEAL] hereunto affixed. Given under my hand at the City of Washington, the fifth day of August in the year of our Lord 1791, and of the Independence of the United States the twenty fifth.

Gº. WASHINGTON,

By the President.

TH. JEFFERSON, *Secretary of State.*

This commission was, it will be observed, for an appointment made during a recess of the Senate.

The form for a diplomatic officer is as follows. It is the same as that used April 20, 1790, in the commission given to William Short, the first diplomatic officer appointed by President Washington.

Abraham Lincoln, President of the United States of America,

To Cassius M. Clay, of Kentucky, Greeting,

Reposing special trust and confidence in your Integrity, Prudence and Ability, I have nominated, and by and with the advice and consent of the Senate do appoint you Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Spain, authorizing you, hereby, to do and perform all such matters and things as to the said place or office doth appertain, or as may be duly given you in charge hereafter, and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused these Letters to be made patent and the Seal of the United States to [SEAL] be hereunto affixed. Given under my hand at the City of Washington, the Fourteenth day of March in the year of our Lord 1861, and of the Independence of the United States the Eighty-fifth.

ABRAHAM LINCOLN.

By the President.

WILLIAM H. SEWARD,

Secretary of State.

For a consul the form was:

George Washington, President of the United States of America,

To all who shall see these Presents, Greeting:

Know ye, that reposing special Trust and Confidence in the Abilities and Integrity of Samuel Shaw of Massachusetts, I have nominated and by and with the advice and consent of the Senate do appoint him Consul of the United States to reside at Canton, China, And do authorize and empower him to have and to hold the said office and to exercise and enjoy all the Rights, Preeminences, Privileges and Authorities to the same of Right appertaining, during the pleasure of the President of the United States for the time being. He demanding and receiving no fees or perquisites of office whatever. And I do hereby enjoin all Captains, Masters and Commanders of ships, and other vessels, armed or unarmed, sailing under the flag of the United States, as well as all other of their citizens to acknowledge and consider him the said Samuel Shaw accordingly. And I do hereby pray, and request his Imperial Majesty the Emperor of China, and his Governors and officers, to permit the said Samuel Shaw fully and peaceably to enjoy and exercise the said office without giving or suffering to be given unto him, any molestation or trouble, but on the contrary to afford him all proper countenance and assistance; I offering to do the same for all those

who shall, in like manner, be recommended to me by his said Imperial Majesty.

In testimony whereof, I have caused these Letters to be made patent, and the Seal of the United States to [SEAL] be hereunto affixed. Given under my hand at the City of New York the tenth day of February, in the year of our Lord, one thousand seven hundred and ninety.

Go. Washington.

A consul being appointed in a country where there were other American consuls received a commission with the following variation, the example being taken from the commission to Joshua Johnson, August 3, 1790:

. . . . Consul of the United States of America for the Port of London in the Kingdom of Great Britain, and for such parts of the said Kingdom as shall be nearer to the said Port than to the residence of any other Consul or Vice-Consul of the United States in the said Kingdom.

The only changes in the form of the consular commission have been that after the words "fees or perquisites of office whatever," there were added, "which shall not be expressly established by some law of the said United States," and in 1910 after the name of the place to which the consul is appointed were added the words "and its prescribed district."

The form of exequatur issued to a foreign consul has not changed. If his commission is from the head of the state which he represents, the recognition is by the President. If it is from a lesser authority it is by the Secretary of State, the form being the same, *mutatis mutandis*.

William Howard Taft, President of the United States of America,

Satisfactory evidence having been exhibited to me that Henri Francastel has been appointed Consul of France at New Orleans, Louisiana, for the States of Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma and Tennessee and the Territory of New Mexico, I do hereby recognize him as such and declare him free to exercise and enjoy such functions, powers, and privileges as are allowed to the consuls of the most favored nations in the United States.

In testimony whereof &c.

[February 27, 1911.]

The seal of the United States is placed on the outside of the envelope which contains a letter from the President to the head of a foreign government. It is customary to send a copy of the letter with the original and the original often remains unopened in the sealed envelope. What are known as ceremonial letters are communications usually of a congratulatory or condolatory character, couched in complimentary language which is without significance. They are written in the Department by some officer or clerk who understands the art of correctly turning the sentences and following the prescribed forms. The Continental Congress wrote many of these letters.

The following, which is one of the earliest signed by the President, was written in consequence of the official news of the death of the Dauphin of France.[1] It is warmer in tone than is customary, but does not differ in style from a letter at the present day from the President to a head of government.

[1] Bureau of Indexes and Archives, Letters of Credence.

To the King of France.

Great and beloved Friend and Ally.

By the change which has taken place in the national Government of the United States, the honor of receiving and answering your Majesty's letter of 7th of June, to "the President and Members of Congress," has devolved upon me.

The painful event communicated in it, could not fail to affect the sensibility and excite the Regret of the People of the United States, who have so much reason to feel an Interest in whatever concerns the Happiness of your Majesty, your Family and Nation. They very seriously condole with you on the occasion and are sensible how greatly the Misfortune must have been enhanced by those Qualities in the Dauphin, which promised to have rendered that Prince a Blessing, not only to his Family, but to his Nation.

Permit me to assure your Majesty of the unceasing Gratitude and Attachment of the United States, and of our Prayers that the Almighty will be pleased to keep you, our Great and beloved Friend and Ally, under his constant Guidance and Protection.

New York the ninth day of October 1789.

Go. Washington.

[Sealed on the outside.]

Another class of President's letter of greater importance is the "letter of credence" given to an American diplomatic representative to present to the head of the government to which he is accredited. The form has undergone no changes.

To the Queen of Portugal.

Great and good Friend,

Desirous to promote a friendly and useful intercourse between the subjects of your Majesty and the Citizens of these states, and to give proofs of our good will and consider-

ation towards your Majesty, I have named David Humphreys, one of our distinguished citizens, Minister Resident for the United States of America near your Majesty. He knows the interest we take, and shall ever take, in your prosperity and happiness; and I beseech your Majesty to give entire credence to whatever he shall deliver on our part, and most of all when he shall assure you of the sincerity of our Friendship.

I pray God to keep you, Great and Good Friend, under his holy protection.

Written at Philadelphia the twenty-first of February 1791.

Your Good Friend,

Gº. Washington.

By the President:

Th. Jefferson.

The letters of credence and ceremonial letters are prepared in the Diplomatic Bureau and recorded in the Bureau of Indexes and Archives.

As the bureau in which all commissions are recorded the Bureau of Appointments prepares and records the commissions of clerks. The form of appointment observed by the first Secretary is given in a previous chapter.[1] Slight modifications have occurred since.

In 1817 it was as follows:

In pursuance of authority under the Act of Congress passed on the eleventh day of September, 1789, entitled "An Act for establishing the salaries of the executive officers of the government with their assistants and clerks," I do hereby appoint John Bailey, a clerk in the Department of State.

Given under my hand at Washington this first day of October 1817.

John Quincy Adams.

[1] *Ante*, p. 95.

In 1870 it was as follows:

DEPARTMENT OF STATE,
Washington *1st June, 1870.*

I hereby appoint Sevellon A. Brown of New York, to be a clerk of the fourth class, in the Department of State, of the United States, during the pleasure of the Secretary of State for the time being, with a salary at the rate of eighteen hundred dollars per annum.

HAMILTON FISH,
Secretary of State.

After the enactment of the Civil Service Law it became:

July 24, 1884.

The United States Civil Service Commission having certified to me that Edward C. Stewart of the District of Columbia has satisfactorily passed an examination in pursuance of the provisions of Section 5, Rule VII of the Civil Service Rules, I hereby appoint &c

the words "during the pleasure of the Secretary of State" being omitted.

The existing form states how the vacancy which is being filled was occasioned.

DEPARTMENT OF STATE,
Washington,
May 8, 1907.

I hereby appoint Wilbur J. Carr to be Chief Clerk of the Department of State, with a salary at the rate of three thousand dollars per annum under the provisions of Civil Service Rule XI, vice Charles Denby, promoted.

ELIHU ROOT,
Secretary of State.

Every clerk or officer serving under the government is required after his appointment and before he enters upon his duties to take the oath of allegiance. The early forms used have been given before.[1] The Act of August 6, 1861,[2] formulated the iron-clad oath:

I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, convention or legislature to the contrary notwithstanding; and, further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatever; and, further, that I will well and faithfully perform all the duties which may be required of me by law: so help me God.

This was repealed by the Act of May 13, 1884,[3] and the form prescribed by section 1757 of the Revised Statutes was declared to be the oath. It is as follows:

I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same, and that I take this obligation freely without any mental reservation or purpose of evasion, and that I will well and faithfully perform the duties of the office upon which I am about to enter: so help me God.

Not only is every one appointed to office required to take this oath; but he is required to take a fresh oath

[1] *Ante*, p. 99.
[2] 12 *Stat.*, 326.
[3] 23 *Stat.*, 22.

every time he may be promoted (or reduced) and receive a new commission.

The Bureau of Appointments not only has charge of appointments to office, but of resignations, dismissals, and suspensions, and records the dismissals and suspensions. It was an irregular custom in the earlier days of the government for an officer who resigned to return the commission under which he served to the appointing power. When General Washington resigned as Commander-in-Chief of the American Army in 1783 he handed his commission to the President of Congress and it is now a part of the archives of the Continental Congress. When Robert Smith resigned as Secretary of State in 1811, he handed his commission to President Madison. There are, or were, a number of resigned commissions among the archives of the Department. In 1831, when John Branch resigned as Secretary of the Navy under Andrew Jackson, he sent his commission to the President, who returned it, saying: "It is your own private property, and by no means to be considered part of the archives of the government. Accordingly I return it." There are no instances in recent years of the surrender of the commission. If a resigning officer should send the document to the President or the Department it would be the duty of either to return it to him.

Not only the resignations from office, but the applications and recommendations for office, are part of the archives of this bureau. These papers relate to all offices which are or were under the jurisdiction of

the Department, and are addressed to either the President or the Secretary of State. Some Presidents have filed all papers, even of the most intimate and confidential character, relating to appointments with the Department; but others have carried many such papers away as their personal correspondence. They form an interesting index to the attitude of public opinion towards executive offices. Applications and recommendations in the first administration fall under five heads.[1]

First, those which relate exclusively to the fitness of the applicant for the duties of the office, this group being much the largest.

Second, those in which the performance of military service constitutes one of the reasons advanced for asking for the office.

Third, those in which continuance in an office already existent under the old government is asked.

Fourth, those in which the necessitous circumstances of the applicant are advanced as a reason, and

Fifth, those in which the political opinions of the applicant are brought forward as a reason for his appointment.

The fifth group was much the smallest under Washington. It was still insignificant under John Adams; it became large and important under Thomas Jefferson; it sank into insignificance under James Madison, James Monroe, and John Quincy Adams, and loomed

[1] See *Calendar of Applications and Recommendations for Office During the Presidency of George Washington* (Hunt), Government Printing Office, 1901.

into overweening proportions under Andrew Jackson. Thereafter it rose and fell, being always, however, large, until in the past thirteen years it has dwindled rapidly. Its size is, of course, affected by the political character of the Secretary of State as well as the President, some secretaries having been more active participants in dispensing patronage than others.

The applications under General Washington, being wholly of historical interest, were, in 1909, deposited by the Department in the Manuscripts Division of the Library of Congress.

It was a custom begun by General Washington, and generally observed thereafter until President Cleveland's second term in 1893, to answer no letters soliciting or recommending to office.[1] Since then the correspondence on the Department's part has taken the briefest form, being no more than a line of acknowledgment of the receipt of the papers.

[1] *Works of John Adams*, IX, 577; *Writings of Jefferson* (Ford), IX, 313.

CHAPTER XI

THE LAWS

SECTION 2 of the organic act of the Department provided that every bill, order, resolution or vote of both houses of Congress which the President approved, or which he suffered to become effective without his approval, should be sent by the President to the Secretary of State; that every such document returned by him to Congress with his disapproval and then passed by a two-thirds vote should be sent by the Speaker of the House or the President of the Senate, according to which body it had originated in, to the Secretary of State; that he should as soon as possible cause it to be printed in at least three newspapers; should deliver one printed copy to each senator and representative; and should send two printed copies duly authenticated to the governors of all the states. He was to preserve the original laws carefully and cause them to be recorded in books.[1]

Thus there were to be: (1) the original laws; (2) the books of the recorded laws; (3) the laws printed in the newspapers; (4) the printed copies sent to the senators and representatives; and (5) the authenticated copies sent to the governors.

1 See Monthly Catalogue issued by the Superintendent of Documents, September, 1908, Introduction.

By joint resolution of June 14, 1790, treaties were ordered to be published in the same manner as the laws.[1]

The recording of the laws was neglected by the Department. John Quincy Adams writes November 9, 1819:

> Looking over the laws of the United States, with a view to the regulations in them concerning weights and measures, I observed a law passed 15th September, 1789, requiring that the Secretary of State should have all the laws and resolutions of Congress recorded in books to be provided for the purpose. No such record has been kept for many years. I determined that this part of my duty should no longer be omitted, and gave Mr. Brent some directions for carrying it into effect.[2]

By Act of July 7, 1838, the requirement of recording the laws was repealed.[3] The printing of the laws in newspapers to be selected by the Secretary of State gave him important power of patronage, and the solicitations for the printing are a considerable portion of the early correspondence of the Department. Only journals which favored the administration were selected to print the laws, and payment for the printing was a substantial remuneration to the favored papers. Under the Act of March 3, 1795,[4] the newspaper publication was abandoned; but it was revived by Act of March 2, 1799,[5] and the patronage was extended by requiring the publication in at least one

[1] 1 *Stat.*, 187.
[2] *Memoirs*, IV, 435.
[3] 5 *Stat.*, 302.
[4] 1 *Stat.*, 443.
[5] 1 *Stat.*, 724.

newspaper in each state; but if this should prove to be insufficient, it might be made in three newspapers in a state. The Acts of March 27, 1804,[1] and December 23, 1817,[2] made provision for publication by newspapers in the territories. The Act of May 11, 1820,[3] continued the newspaper publication, but provided that a treaty should be published in one newspaper "within the limits of the State or Territory to which the subject matter of such treaty shall belong." Evidently this was meant to apply especially to Indian treaties. The Act of July 23, 1866,[4] appropriated $15,000 for printing the laws in newspapers in the insurrectionary states. The Act of June 20, 1874,[5] ordered the newspaper publication to cease after March 4, 1875.

How the laws were printed by the newspapers is illustrated by the following letter. It is in printed form except for the signature, date, place, address, and postscript:

DEPARTMENT OF STATE,
Washington, December 1, 1817.

Sir,

You are hereby appointed one of the Printers for publishing the Laws of the United States, which may be enacted during the First Session of the Fifteenth Congress, in Pennsylvania, at Pittsburgh.

A copy of the National Intelligencer, containing acts of that session, will be regularly forwarded to you, and you will

[1] 2 *Stat.*, 302.
[2] 3 *Stat.*, 473.
[3] 3 *Stat.*, 576.
[4] 14 *Stat.*, 194.
[5] 18 *Stat.*, 90.

proceed to insert them in your newspaper, as they reach you, without the least delay. You are also requested to forward a copy of each number of your paper, containing the acts as from time to time published, to this Department.

When the publication of the Laws shall have been completed by you, your account, made out and presented at the Department of State, will be paid to you, or to your authorized agent, at this place, at the rate of fifty cents for each printed octavo page, estimating the same according to the Pica page of the old edition of the laws.

I am sir,
Respectfully,
Your obedient servant,
J. Q. Adams.

Mr. Charles Shaler,
Printer of the *Commonwealth.*

P. S. It is expected that you will insert the acts on the first page of your paper, commencing on the left hand column of that page, and by no means are you to divide any one act, unless its great length should fill more than the whole four pages of your newspaper.[1]

The printed copies of the laws required to be distributed by the Secretary of State were what are known as "the slip laws," being a separate print of each law, whether long or short.

Soon after Congress met, before there was a Department of State, on June 5, 1789,[2] a joint resolution provided that within ten days after the passage of a law twenty-two printed copies should be lodged with the President, two copies to be sent by him to each Governor of a State. The slip laws are, therefore,

[1] Dept. of State, Miscl. Letters.
[2] *Annals of Cong.*, 1st Cong., 420.

the earliest continuous form of publication of the laws; but the obligatory distribution was discontinued by Act of January 12, 1895.[1] Since then they have been distributed only to such persons as apply for copies. When a certified copy of an act is required, the slip law is compared with the original act and certified to under the seal of the Department. The method by which the slip law is made correct in the first place must be described.

A manuscript law is received at the Department, coming, nearly always, directly from the White House, but occasionally, when it was vetoed and passed over the President's veto, from the President of the Senate or the Speaker of the House. It is registered in the Bureau of Rolls and Library and a printed copy of it, which the Department has already received before it was finally approved, is then compared with it, and sent as the copy to the Government Printing Office. The proof returned is that of the slip law. It is compared with the original law, and the revised proof is again read with the original. Should any errors be detected another revised proof is compared with the original. The comparing with the original continues until the proof is in absolute agreement with the original, when the slip law is finally struck off. Of course, no liberties can be taken with the text of the law itself. If an error was made in it, it must appear in the printed law, the power that passed the law being the only one that can correct it. In preparing the law for printing and promulgation the system followed

[1] 28 *Stat.*, 609.

by the Department is so painstaking that errors are almost unknown.

The form in which a law which has been approved is printed is as follows:

[PUBLIC—No. 54.]

AN ACT To amend section forty-eight hundred and twenty-nine of the United States Revised Statutes concerning surgeons, assistant surgeons, and other medical officers of the National Home for Disabled Volunteer Soldiers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-eight hundred and twenty-nine of the Revised Statutes of the United States be amended by the addition of the following words: "*Provided,* That surgeons, assistant surgeons, and other medical officers of the National Home for Disabled Volunteer Soldiers, and the several Branches thereof, may be appointed from others than those who have been disabled in the military service of the United States."

Approved, February 9, 1897.

A law which has become effective without action by the President is printed with the following statement following it:

[Note by the Department of State.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

When a bill becomes a law in spite of the President's veto it is printed with the action of Congress following, thus:

IN THE HOUSE OF REPRESENTATIVES,

January 22, 1897.

The President of the United States having returned to the House of Representatives in which it originated the bill (H. R. 9469) "An act to constitute a new division of the eastern judicial district of Texas, and to provide for the holding of terms of court at Beaumont, Texas, and for the appointment of a clerk for said court," with his objections thereto, the House proceeded in pursuance of the Constitution to reconsider the same; and

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest: A. MCDOWELL, *Clerk.*

IN THE SENATE OF THE UNITED STATES,

February 8, 1897.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to constitute a new division of the eastern judicial district of Texas, and to provide for the holding of terms of court at Beaumont, Texas, and for the appointment of a clerk for said court," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest: WM. R. COX, *Secretary.*

Formerly the laws were engrossed at the Capitol upon large sheets of parchment; but by concurrent resolution of November 1, 1893,[1] it was provided that they should be printed upon parchment. A subsequent

[1] 28 *Stat.*, Appendix, 5.

concurrent resolution, February 12, 1895,[1] permitted their engrossment by pen, if necessary, during the last six days of a session of Congress, as pressure of time might make it then impossible to have a law printed soon enough for approval before the adjournment of Congress. Printing was substituted for engrossing because it was believed that fewer errors would occur, owing to the continuous practice in accuracy of expert printers and proofreaders, and because when printing the law a second copy can be struck off and sent to the Department of State. Thus as soon as the act has been signed the copy for the printer is ready. Before this system came into vogue it was the custom for the Department to use for the printer's copy the printed bill upon which the law was based; but often there were late amendments to the bill and laborious comparison with the engrossed law caused some delay and increased the chances of error.

The laws having been printed, the originals are bound and deposited in the Department; and the plates from which the printing was done are sent to the Department and preserved. Up to this point the duties of publishing and caring for the laws belong to the Bureau of Rolls and Library.

The law, having been printed, passes to the law clerk, who prepares it for publication in the pamphlet editions of the laws which are issued soon after the close of each session of Congress, and which, brought together at the close of the Congress, become the volumes of Statutes at Large. Up to 1903 the law

[1] 28 *Stat.*, Appendix, 18.

clerk was known as the editor of the laws. The position was not, however, recognized by law, but created by the Department itself and the editor compensated at a rate of $3,000 out of the general appropriation for editing, printing and distributing the laws, made in 1874, after the contract with Little, Brown & Company terminated. The first editor, it is believed, was Robert C. Schenck. He received no regular commission and had a desk in the library, but no regular office. In 1893, under Secretary Gresham, the editor was given an office of his own. By the Act of March 3, 1906, the office of law clerk with a salary of $2,500 per annum was provided for.

The Department's publication of collected laws dates back to the Act of March 3, 1795, which directed the Secretary of State

> after the next session of Congress [to] cause to be collated and printed at the public expense, a complete edition of the laws of the United States, comprising the Constitution of the United States, the public acts in force, and the treaties, together with an index of the same.

Four thousand five hundred copies were to be divided among the several states and the territory northwest of the Ohio, through the Governors, according to the rule of apportioning representatives in Congress, and five hundred copies were reserved for the future disposition of Congress. Acts passed at each succeeding Congress should be printed and distributed in the same way. From this act came the volumes of "Laws of U. States," printed by Richard Folwell, 33 Carter's Alley, Philadelphia.

The Act of March 3, 1797,[1] made distribution of the five hundred reserved copies of the laws. Two sets were to go to George Washington, one for his official use, the other to be his personal property; a set was to go to the Vice-President and to each senator and representative; six sets to the Secretary of the Senate; twelve to the Clerk of the House; one for each of the judges of the Federal Supreme and District Courts and the marshals and attorneys, and sets for cabinet officers and a few other federal officers and the State executives.

The Act of March 27, 1804,[2] required the Secretary of State to procure four hundred sets of the laws; one hundred to be distributed and three hundred to be reserved for future disposal; but the Act of January 2, 1805,[3] transferred the reserve purchase to the Library of Congress. When the government moved from Philadelphia to Washington the official edition of the laws was printed by Samuel Harrison Smith; then by William Duane; then (Vol. 7) by Duane & Son; then (Vols. 8 to 12) by Roger C. Weightman.

By Act of April 18, 1814,[4] the government subscribed for one thousand sets of a new edition to be edited and compiled upon a plan presented by the Secretary of State and Attorney-General, the editor to be selected by the Secretary of State. Under date of June 10, 1814, Richard Rush, the Attorney-General, sent James Monroe, the Secretary of State, the plan for the

[1] 1 *Stat.*, 519.
[2] 2 *Stat.*, 302.
[3] 2 *Stat.*, 308.
[4] 3 *Stat.*, 129.

publication, in which Monroe concurred. It provided for the printing of all laws, whether in force or not, treaties and conventions with foreign powers and Indians, for the comparing of all before printing with the originals; that all important acts of the Continental Congress be included; for notes and an index. John B. Colvin was appointed editor, and an official edition of the laws in five volumes, published by Bioren, Duane and Weightman, appeared in 1815. It was authoritative; but the editor in printing the Constitution of the United States included as an accepted amendment the thirteenth, which was then pending and actually was not ratified. This edition was continued, volumes being added to it up to 1845. Volume 6, also edited by Colvin, was published by Davis and Force, Washington, 1822; Volume 7 was published by W. A. Davis, 1827, with an index made by Samuel Burch; Volume 8, by W. A. Davis, 1835; Volume 9, issued in 1839, does not bear the publisher's name; Volume 10 was printed by J. and G. S. Gideon, 1845. This edition did not interfere with the pamphlet edition of the laws issued by the Secretary of State at the close of each session of Congress, which was initiated by the Secretary of State without especial authority of law, and ordered to be stopped by Act of August 26, 1842. It was revived by Act of June 25, 1864, and it has continued ever since. Concurrently with the official publications of the laws have been certain private publications having a semi-official status.

By Act of February 18, 1791,[1] a joint resolution gave permission to Andrew Brown or any other printer under direction of the Secretary of State to print the laws, resolutions, and treaties of the United States.

The Act of March 3, 1823, ordered the Secretary of State to subscribe for 550 copies of the sixth volume of the laws published by Davis and Force of Washington and distribute them among the several branches of the Federal Government and to the states.[2]

The Act of February 24, 1829,[3] directed the Secretary of State to purchase and distribute five hundred copies of the Digest of the Laws of the United States, compiled by Thomas F. Gordon, at six dollars per copy. These and other private publications were in a measure under the sanction of the Secretary of State, as none of them could survive without his patronage.

The Act of March 3, 1845,[4] recognized as authority the edition of the laws printed by Little & Brown of Boston, and discontinued the Department publication; but by Act of June 25, 1864, payment to Little & Brown was stopped. A resolution of March 31, 1866, renewed the contract and provided that the price for each volume should not be more than five per cent above cost price. With the inauguration of the Little & Brown edition in 1845 began the series of Statutes at Large, the Department of State when it took over

[1] 1 *Stat.*, 224.
[2] 3 *Stat.*, 786.
[3] 4 *Stat.*, 334.
[4] 5 *Stat.*, 527.

the publication in 1874 making its volumes a continuation of the Little & Brown edition.

The Act of June 20, 1874,[1] discontinued the contract with Little & Brown and ordered the Secretary of State to publish the laws at the close of each Congress, having previously published them in pamphlet form at the close of each session. The pamphlet was to be distributed:

To the President and Vice President of the United States, two copies each; to each Senator, Representative, and Delegate in Congress, one copy; to the librarian of the Senate, for the use of Senators, one hundred and twenty-six copies; to the librarian of the House, two hundred and fifty copies, for the use of the Representatives and Delegates; to the Library of Congress, fourteen copies; to the Department of State, including those for the use of legations and consulates, six hundred copies; to the Treasury Department, two hundred copies; to the War Department, including those for the use of officers of the Army, two hundred copies; to the Navy Department, including those for the use of officers of the Navy, one hundred copies; to the Department of the Interior, including those for the use of the surveyors-general and registers and receivers of public land offices, two hundred and fifty copies; to the Post Office Department, fifty copies; to the Department of Justice, including those for the use of the Chief Justice and associate justices, the judges and the officers of the United States and territorial courts, four hundred and twenty-five copies; to the Department of Agriculture, ten copies; to the Smithsonian Institution, five copies; to the Government Printing Office, two copies; to the governors and secretaries of Territories, one copy each; to be retained in the custody of the Secretary of State, one thousand copies; and ten thousand copies shall be distributed

[1] 18 *Stat.*, 113.

to the States and Territories in proportion to the number of Senators, Representatives, and Delegates in Congress to which they are at the time entitled.

The bound volumes were to be distributed, under section 7 of the act, as follows:

That after the close of each Congress the Secretary of State shall have edited, printed and bound a sufficient number of the volumes containing the Statutes at Large enacted by that Congress to enable him to distribute copies, or as many thereof as may be needed, as follows: To the President of the United States, four copies, one of which shall be for the library of the Executive Mansion, and one copy shall be for the use of the Commissioner of Public Buildings; to the Vice President of the United States, one copy; to each Senator, Representative, and Delegate in Congress, one copy; to the library of the Senate, for the use of Senators, one hundred and fourteen copies; to the librarian of the House, for the use of Representatives and Delegates, four hundred and ten copies; to the Library of Congress, fourteen copies, including four copies for the law library; to the Department of State, including those for the use of legations and consulates, three hundred and eighty copies; to the Treasury Department, including those for the use of officers of customs, two hundred and sixty copies; to the War Department, including a copy for the Military Academy at West Point, fifty copies; to the Navy Department, including a copy for the library at the Naval Academy at Annapolis, a copy for the library at each navy-yard in the United States, a copy for the library at the Brooklyn Naval Lyceum, and a copy for the library of the Naval Institute at Charlestown, Massachusetts, sixty-five copies; to the Department of the Interior, including those for the use of the surveyors-general and registers and receivers of public land-offices, two-hundred and fifty copies; to the Post Office Department, fifty copies; to the Department of Justice, including those for the use of the chief and associate

justices, the judges and the officers of the United States and territorial courts, four hundred and twenty-five copies; to the Department of Agriculture, five copies; to the Smithsonian Institution, two copies; to the Government Printing Office, one copy; and the Secretary of State shall supply deficiencies and offices newly created.

Also, the Department was ordered to sell the Revised Statutes and the laws of each session "at the cost of the paper, press work, and binding, with ten per cent thereof added thereto to any person applying for the same," the proceeds to be paid into the Treasury.

The Act of 1874 provided for the preparation of volumes of the Revised Statutes under the supervision of the Secretary of State. Efforts to secure a revision had been made from time to time, but took no definite shape until under the Act of June 27, 1866,[1] a commission was appointed to make the revision, the chairman being Caleb Cushing. The work was abandoned, however, when he resigned and went on a diplomatic mission, no one being appointed in his place. In 1870, Act of May 4,[2] a second commission was provided for which produced the body of laws which was accepted and made effective by Congress on June 22, 1874, and published in 1875. Section 2 of the Act of June 20, 1874, required:

That the Secretary of State is hereby charged with the duty of causing to be prepared for printing, publication, and distribution, the Revised Statutes of the United States enacted at this present session of Congress; . . . . and when

1 14 *Stat.*, 74.
2 16 *Stat.*, 96.

the same shall be completed, the said Secretary shall duly certify the same under the seal of the United States, and when printed and promulgated as hereinafter provided, the printed volumes shall be legal evidence of the laws and treaties therein contained, in all the courts of the United States, and of the several States and Territories.

But the Act of December 28, 1874, providing for the authentication of the Revised Statutes, required that the certificate be "under the seal of the Department of State." Accordingly, the certificate which was signed by Hamilton Fish, dated February 22, 1875, which preceded the first edition of the Revised Statutes, was under the seal of the Department. It cited the law and said:

> Now, therefore, I, Hamilton Fish, Secretary of State, do hereby certify that the following are the "Revised Statutes of the United States" as enacted by Congress on the 22d day of June, 1874, prepared, printed, and published according to the provisions of the first mentioned act of June 20, 1874.

Under the provisions of the Act of March 2, 1877, George S. Boutwell was selected to prepare a second edition of the revision, and it was published in 1878. The Secretary of State was required by the law to examine and approve the edition, and the volume was prefaced by a certificate from him under the seal of his Department that he had examined and compared the new edition.

Supplements have been issued in 1881, 1891, 1892, 1893, 1895, 1896, 1897, 1899, 1901. The supplement of 1901 completed Volume 2 of the bound volume.

To recapitulate, there are now, under the jurisdiction of the Secretary of State:

1. The original parchment laws of the United States, commonly known as the manuscript laws, formerly engrossed, but now printed.

2. The slip laws printed directly from the parchment laws.

3. The pamphlet laws issued at the close of each session of Congress, based upon the slip laws, but compared again with the manuscript laws.

4. The volumes of Statutes at Large printed at the close of each Congress based upon the pamphlet laws.

5. The Revised Statutes with supplements, compiled from the Statutes at Large.

We have seen that when an act is passed over the President's veto, it is sent to the Secretary of State by the Speaker of the House or the President of the Senate. If his veto prevails the bill remains in the archives of Congress.

If a bill becomes law by the President's permission, but without his approval, that is to say, simply by his failure to sign it or return it to Congress with his veto within ten days after it has passed Congress, it is sent from the President's office, where it has been held for the ten days, to the Department of State, with a statement from one of the President's secretaries of the circumstances under which it has become a law. If a bill passes Congress within ten days of adjournment it can not become a law without the President's signature. He has greater power over such a bill than he has over other bills, for if he disapproves of it he may

kill it by inaction and Congress is powerless to prevent his doing so. A number of bills have been thus rendered ineffective. The process is known as a "pocket veto," and what are called the "pocketed laws" are sent to the Department of State from the White House, becoming a part of the Department archives in the Bureau of Rolls and Library.

Included in the publications of the laws are the proclamations of the President and treaties with foreign powers, the originals of both being prepared in the Department of State and only leaving it to go to the White House to be signed. As a matter of fact, a treaty is proclaimed by the President before it becomes effective. The ordinary proclamation is, however, printed on a foolscap sheet. The same care is exercised to ensure the correctness of the print as is used in printing a law. The proclamations are not included in the publications of the pamphlet laws, but are embodied in the publications of Statutes at Large. So are the treaties; and they are first printed by the Department in the same form as the slip laws. All treaties, except some postal conventions, are negotiated by the Secretary of State, and the originals of all treaties become a part of the Department's archives. Executive orders are prepared for the President's signature in the Department which has jurisdiction over the subject to which they relate; but they are printed by the Department of State in the same form as proclamations, and the originals become a part of its records. They are not printed in the

volumes of laws, although in some cases they have the force of law.

Until 1898 the printed editions of the laws passed into the immediate custody of the Bureau of Accounts, in the Department, being distributed according to the act of Congress, and sold subject to the provisions of the following circular, the moneys received being deposited in the Treasury Department and credited to the fund "Miscellaneous Accounts":

DEPARTMENT OF STATE.

The following are the prices at which the Laws of the United States are *sold* at this Department, no provision having been made by Congress for their *free* distribution:

Revised Statutes (Edition of 1878), bound . .	$2.90
Revised Statutes relating to District of Columbia, Post Roads, and Public Treaties, bound . .	3.58
Supplement to the Revised Statutes (Edition of 1891), bound . . . . . (Abridgment of Vols. 18, 19, 20, 21, 22, 23, 24, 25, and 26, Statutes at Large.)	2.00
Laws of first session, 43d Cong., 1873-'74, pamphlet .	1.05
Laws of second session, 43d Cong., 1874-'75, pamphlet	65
Statutes at Large, Vol. 18, 43d Cong., 1873-'75, bound	2.99
Laws of first session, 44th Cong., 1875-'76, pamphlet .	65
Laws of second session, 44th Cong., 1876-'77, pamphlet	48
Statutes at Large, Vol. 19, 44th Cong., 1875-'77, bound	2.40
Laws of first session, 45th Cong., 1877, pamphlet .	12
Laws of second session, 45th Cong., 1877-'78, pamphlet	50
Laws of third session, 45th Cong., 1878-'79, pamphlet	55
Statutes at Large, Vol. 20, 45th Cong., 1877-'79, bound	2.28
Laws of first session, 46th Cong., 1879, pamphlet .	14
Laws of second session, 46th Cong., 1879-'80, pamphlet	60

Laws of third session, 46th Cong., 1880-'81, pamphlet	46
Statutes at Large, Vol. 21, 46th Cong., 1879-'81, bound	2.50
Laws of first session, 47th Cong., 1881-'82, pamphlet .	72
Laws of second session, 47th Cong., 1882-'83, pamphlet	55
Statutes at Large, Vol. 22, 47th Cong., 1881-'83, bound	2.30
Laws of first session, 48th Cong., 1883-'84, pamphlet .	65
Laws of second session, 48th Cong., 1884-'85, pamphlet	50
Statutes at Large, Vol. 23, 48th Cong., 1883-'85, bound	2.10
Laws of first session, 49th Cong., 1885-'86, pamphlet	75
Laws of second session, 49th Cong., 1886-'87, pamphlet	50
Statutes at Large, Vol. 24, 49th Cong., 1885-'87, bound	2.20
Laws of first session, 50th Cong., 1887-'88, pamphlet .	1.00
Laws of second session, 50th Cong., 1888-'89, pamphlet	55
Statutes at Large, Vol. 25, 50th Cong., 1887-'89, bound	2.45
Laws of first session, 51st Cong., 1889-'90, pamphlet .	1.05
Laws of second session, 51st Cong., 1890-'91, pamphlet	70
Statutes at Large, Vol. 26, 51st Cong., 1889-'91, bound	2.60
Laws of first session, 52d Cong., 1891-'92, pamphlet .	70

The Revised Statutes (Edition 1878) embraces the laws of a general and permanent nature in force December 1, 1873, and the specific amendments thereof made during the 43d and 44th Congresses. The Supplement to the Revised Statutes is an abridgment of Vols. 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Statutes at Large, comprising all the laws of a general and permanent nature passed during the 43d, 44th, 45th, 46th, 47th, 48th, 49th, 50th, and 51st Congresses.

Payment is required to be made in cash, postal notes, or by bank drafts on banks in New York city or Washington, D. C., payable to the order of the "Disbursing Clerk, Department of State." *Individual checks on banks located outside of New York or Washington can not be accepted.*

The books will be sent by mail, postage free.

....., ...,

Disbursing Clerk.

The Act of March 15, 1898,[1] took this duty away from the Department and the laws are now sold by the Superintendent of Documents.

Probably the most important law in the Department's custody is the Declaration of Independence, and this document has had a peculiar form of publication which may be appropriately described here.

On January 2, 1824, a letter from the Secretary of State, John Quincy Adams, was read in the House of Representatives stating that a copperplate facsimile had been made of the Declaration of Independence and two hundred copies struck off, which it remained for Congress to dispose of.[2] A joint resolution was passed May 26, directing that two copies be sent to each of the surviving signers of the document; two copies to the President; two to the late President, Mr. Madison; two to the Marquis de Lafayette; twenty copies to the two houses of Congress; twelve to the different departments; two for the President's house; two for the Supreme Court room; one for each of the Governors of the states; one for each branch of the legislatures of the states; one for each Governor of a territory; one for the legislative council of each territory and the remainder to be distributed to such colleges and universities as the Secretary of State might select. The President was requested to cause the distribution to be made agreeably to this plan.[3]

The surviving signers were John Adams, Thomas

1 30 *Stat.*, 316.

2 *Annals of Congress*, 18 Cong., 1st Session, I, 915.

3 4 *Stat.*, 78.

Jefferson, and Charles Carroll of Carrollton, and to each was sent a letter identical with the following, *mutatis mutandis:*

DEPARTMENT OF STATE

Washington 24 June 1824.

To John Adams,
Quincy, Massachusetts.
Sir

In pursuance of a joint Resolution of the two Houses of Congress, a Copy of which is hereto annexed, and by direction of the President of the United States, I have the honour of transmitting to you, two *facsimile* copies of the original Declaration of Independence engrossed on parchment, conformably to a secret Resolution of Congress of the 19th July 1776, to be signed by every Member of Congress, and accordingly signed on the second day of August of the same year.

Of this Document, unparalleled in the Annals of Mankind, the original deposited in this Department exhibits your name as one of the subscribers. The Rolls herewith transmitted are copies as exact as the art of engraving can present, of the Instrument itself, as well as of the signatures to it. While performing the duty thus assigned to me, permit me to felicitate you and the Country, which is reaping the reward of your labours, as well that your hand was affixed to this record of glory, as that after the lapse of near half a century, you survive to receive this tribute of reverence and gratitude, from your children, the present fathers of the land.

With every sentiment of veneration, I have the honour of subscribing myself your fellow Citizen.

(Signed) JOHN QUINCY ADAMS.[1]

The engraver of this, the only facsimile of the Declaration that has ever been made, was William J. Stone of Washington. It is supposed that in making

[1] Dept. of State MSS., Miscl. Letters.

it directly from the document itself he took off some of the surface ink, thereby lessening its permanence. At any rate, it began to deteriorate about thirty-five years ago and thereafter faded rapidly. This fact is not, however, due only to the method by which the facsimile was taken, but to its exposure on exhibition to strong light for one hundred and seven years. It was first in the Department's office, but from 1841 to 1877 was in the Patent Office, being permitted to remain on exhibition there even after the Patent Office ceased to be a part of the Department of State, because the building occupied by the Patent Office was believed to be fireproof and the Department was not yet established in good quarters. For the Centennial Exhibition of 1876 the document was permitted to be taken to Philadelphia and was read at the opening exercises. It is presumed that authority for the removal was based upon section 5 of the Act of March 5, 1875, relative to the exhibition:

> And authority is hereby given to the heads of the several Executive Departments to display at the International Exhibition of Eighteen hundred and seventy-six, under such conditions as they may prescribe . . . . all such articles in store or under the control of said Departments as may be necessary or desirable to render such collection complete and exhaustive.[1]

Deterioration in the document had already been noticed, for on August 3, 1876, a joint resolution of Congress was passed providing that

> a commission, consisting of the Secretary of the Interior,

[1] 8 *Stat.*, 400.

the Secretary of the Smithsonian Institution and the Librarian of Congress, be empowered to have resort to such means as will most effectually restore the writing of the original manuscript of the Declaration of Independence, with the signatures appended thereto, now in the United States Patent Office; and that the expense attending the same be defrayed out of the contingent fund of the Interior Department.

This resolution was allowed to go unnoticed until May 30, 1880, when the Secretary of the Interior, Carl Schurz, called the commission together:

May 3rd 80.

A. R. Spofford, Esq.,
Librarian of Congress.

Sir:

By a Joint Resolution of Congress, approved August 3, 1876, the Secretary of the Interior, the Secretary of the Smithsonian Institution and the Librarian of Congress, were constituted a Commission, empowered to take measures to restore the writing of the Declaration of Independence and the signatures appended thereto. If it should suit your convenience, I will be pleased to see you at the Department of the Interior, on Wednesday, the 5th instant, at 3 o'clock, P. M., to consult on the subject of said resolution.

An invitation has been extended to the Secretary of the Smithsonian Institution, to be present at the time stated.

Very respectfully,
C. Schurz,
Secretary.[1]

The commission requested the president of the National Academy of Science to appoint a committee of experts to examine into the question of a restoration of the document.

[1] Archives of the Secretary's Office, Department of the Interior.

May 6th 80.

Prof. William B. Rogers,

President of the National Academy of Science, Boston, Mass.

Sir:

By joint resolution of Congress, approved August 3, 1876, the Secretary of the Interior, the Secretary of the Smithsonian Institution and the Librarian of Congress, were constituted a commission empowered to take measures to restore the writing of the Declaration of Independence and the signatures appended thereto. In compliance with the direction of the Commission I have the honor to submit for your consideration the following resolution passed at a meeting held at the Department of the Interior on the 5th instant.

"That the Secretary of the Interior, Chairman of the Commission, present the question of restoration of the faded writing of the original manuscript of the Declaration of Independence, to the President of the National Academy of Sciences, Professor William B. Rogers, of Boston, with the request to appoint a committee of experts, from the members of the Academy, to take the subject into consideration, and to report whether such restoration be expedient or practicable, and if so in what way the object can best be accomplished."

C. Schurz,
Secretary of the Interior and
Chairman of the Commission.

Professor Rogers appointed a committee which reported January 7, 1881.

Report of the Committee of the National Academy of Sciences on the restoration of the manuscript of the Declaration of Independence:

Prof. Wm. B. Rogers, President of the National Academy of Sciences,

Sir:

The Committee of the National Academy of Sciences to

which was referred the question of restoration of the faded writing of the original manuscript of the Declaration of Independence respectfully reports: That in the judgment of the Committee it is not expedient to attempt to restore the manuscript by chemical means partly because such methods of restoration are at best imperfect and uncertain in their results, and partly because the Committee believes that the injury to the document in question is due, not merely to the fading of the ink employed, but also and in a large manner, to the fact that press copies have been taken from the original so that a part of the ink has been removed from the parchment.

The Committee is therefore of opinion that it will be best either to cover the present receptacle of the manuscript with an opaque lid or to remove the manuscript from its frame and place it in a portfolio, where it may be protected from the action of light and furthermore that no press copies of any part of it should in future be permitted.

Wolcott Gibbs, *Chairman.*
J. E. Hilgard.
J. Laurence Smith.
R. E. Rogers.
C. F. Chandler.

Boston, *Jan. 7, 1881.*

It is believed that the committee was in error in supposing that more than one press copy was ever taken of the document.

The report of the committee was communicated to the Secretary of State by the Secretary of the Interior January 21, 1881.

The request which brought its removal to Philadelphia is indicated by the following correspondence:

INDEPENDENCE HALL
(MUSEUM DEPARTMENT)

Philadelphia, *Febry.* 1, 1876.

To Hon. Z. Chandler,
Secretary of the Interior.

Sir:

A committee composed of the two Presidents of Councils of the City of Phila— the Chairman of the Committee on Centennial Anniversary, the Commit. of City Property, and myself have been, under the authority of an ordinance, engaged for three years past in restoring Independence Chamber to its appearance in July, 1776. The original chairs used by the members, the chair occupied by Hancock as President, the table upon which the Decln of Independence was signed—even the silver inkstand used upon the occasion—all have now been restored to their positions—while the walls of the chamber exhibit portraits duly authenticated of nearly all who debated & signed our Magna Charta.

I respectfully transmit for your examination the *three* reports duly made as the work progressed. Messrs. Farrell & Co. have now contributed a first class fire-proof safe constructed pursuant to the directions of the Comtee., which has been placed in Independence Hall. When the doors are opened the contents will be securely presented by a heavy plate glass inner door—the fire-proof doors to be opened by day & closed at night.

We beg most respectfully but earnestly to request that you will deposit in this safe the original Decln. of Independence in your custody, that it may then be exhibited to the citizens of the U. States generally & to foreigners in the very chamber where that document was originally discussed & signed.

We have already taken every precaution that the most experienced insurance inspector could point out to secure this Building against fire & desire to express ourselves ready & willing to adopt whatever more you may point out to ensure

the perfect safety of this inestimable document. The key of the inner or glass door shall be placed in your hands if you so desire, so that the actual custody need not pass from your department, or we will have it (the glass door) screwed in place & request the seal of your department to be placed over it.

The Comtee. or its chairman will personally proceed to Washington & carry out your instructions or will take such action as you may deem desirable or expedient.

Very respy personally & on the part of the Comtee. on Restoration of Independence Hall.

FRANK M. ETTING,
Chairman.

The government had already resolved to send the Declaration to Philadelphia, but had designed to keep it in the building which was being erected to hold the government's exhibits. The Secretary of the Interior wrote to the Philadelphia committee:

DEPARTMENT OF THE INTERIOR,

Washington, D. C., *February* 21st, 1876.

Sir:

I acknowledge the receipt of your letter, dated the 1st instant, requesting on behalf of the "Committee on the Restoration of Independence Hall", that the original Declaration of Independence, now, and for many years, on exhibition in the Model Room of the Patent Office, be transferred to the custody of said Committee for the purpose of being exhibited in said Hall, during the approaching Centennial Exhibition.

You are respectfully informed that, prior to the receipt of your letter, arrangements had been perfected to place said Declaration on exhibition in the building erected for the Government display at the Centennial Exhibition, a fire and

burglar-proof safe having been provided for its reception, and to insure it against injury. Under these circumstances, I do not feel at liberty to comply with the request contained in your letter.

I am, Sir, Very respy.,
Your obedient servant,
Z. CHANDLER.

Frank M. Etting, Esq.,
Chmn. of Com. on Restoration
of Independence Hall,
Philadelphia, Penna.

This reply was not accepted as final, and an appeal was made to the President in a letter dated March 28, 1876, substantially identical with that sent to Secretary Chandler, accompanied by a personal letter from George W. Childs:

INTERNATIONAL EXHIBITION
1876
United States Centennial Commission.

Historical Department. Philadelphia, *March* 28, 1876.

My dear Mr. President:

Col. Etting who writes the within letter is the Chairman and moving spirit of the Municipal Committee for the restoration of Independence Hall, whose work has resulted in the admirable change now visible in that venerated historic chamber.

It seems to be so manifest that if the Declaration is to be exhibited in Philadelphia it should be in the very Hall where it was considered, consummated and signed, that nothing can be added by argument to the weight of that single reason. Indeed it seems to me there would be palpable unfitness in showing it anywhere else.

You will see by Col. Etting's letter that every practicable

precaution has been adopted to insure the safety of the precious document, not only from ordinary accident and fire, but from the possibility of being touched by careless hands.

I hope you may be able to see the way clear to such order as will place the Declaration in the old Hall during the six months of the Exhibition.

With respect, truly yours,
GEO. W. CHILDS.

The Secretary of the Interior still resisted transfer of the document to the city of Philadelphia without Congressional authority. He wrote the President, April 13, enclosing a report from the Commissioner of Patents, who had actual possession of the Declaration, showing how it came to be in his office:

DEPARTMENT OF THE INTERIOR
WASHINGTON.

April 13, 1876.

The President,
Sir:

I have the honor to acknowledge the receipt, by your reference, of two communications addressed to you on the 28th and 30th ult., by Frank M. Etting, Esq., Chief of the Historical Department of the International Exhibition, and George W. Childs, Esq., respectively; requesting that an order be issued for the transfer of the original Declaration of Independence from the custody of this Department to that of the Committee who have charge of the restoration of Independence Hall, in Philadelphia, in order that that document may be exhibited in said Hall, during the approaching Centennial celebration in that city.

A similar request was made by Mr. Etting to this Department on the 1st of February last, a compliance with which was declined for the reasons stated in my letter of the 21st of that month, a copy of which is herewith transmitted.

I have also the honor to enclose a copy of a communication, addressed to me on the 11th instant, by the Commissioner of Patents, showing the manner in which the "Declaration" came into the charge of this Department.

While I recognize the eminent fitness of the exhibition of the Declaration of Independence in the Chamber wherein it was adopted and signed, I do not feel at liberty to permit it to pass from my custody unless authorized by Congress to do so.

I have the honor, therefore, to suggest the propriety of submitting the proposition touching such transfer, to Congress, for such direction as that body may see fit to authorize. Should this suggestion meet with your approval, I will prepare the necessary letters and transmit them with copies of the correspondence already had in the matter, to Congress, unless you shall prefer to make the proposition for such transfer the subject of an Executive communication to that body.

I have the honor to be,
With great respect,
Your obedient servant,
Z. CHANDLER,
Secretary.

Enclosed with this letter was the letter from the Commissioner of Patents:

DEPARTMENT OF THE INTERIOR
U. S. Patent Office.
Washington, *April* 11, 1876.

Hon. Z. Chandler,
Sec'y of the Interior.

Sir:

In response to your verbal request of the 4th ult., in regard to the letter of Col. Etting and Geo. W. Childs, of Philadelphia, in relation to the Declaration of Independence, now in your custody, I have the honor to report:

I am not aware that there is any law covering the matter, or consigning the document to your custody. Many years since the buildings in the city wherein such a document could be safely stored were very few. The tradition of the matter is that the document was placed in the Patent Office building for safe-keeping, the State Department being a brick building which offered no security against fire. At that time there was what was known in Washington as "The National Museum," and to this were contributed various things of interest, such as the relics of Washington, the treaties with Foreign Countries, the Benjamin Franklin printing-press, and also this document in question, the Declaration of Independence.

To these objects of personal interest were added subsequently many objects of natural history, and the curiosities brought home by the Wilkes Expedition.

When the Smithsonian Institution was organized in this city, about 1846, the Act of Congress made it the custodian of objects of natural history (See Revised Statutes, pages 1088 to 1090). As the space was required for models, the Patent Office was glad to part with these, but no adequate safety could be secured in the Smithsonian Institution building for these objects which it would be impossible to replace. The wisdom of the determination has been fully justified as the Smithsonian building, since that time, has been subjected to a disastrous fire.

I therefore give it as my judgment on the facts that the Declaration of Independence, and the Commission of General Washington, associated with it in the same frame, belong to your Department as heirlooms, the right being prescriptive.

In regard to the merits of the matter, and the earnestly expressed desire of the gentlemen sending the communication above referred to, it may not be proper that I should express my opinion. It may be permitted, however, to me to state that the document is one around which cluster all the interests of the Centennial period, and as the Government has con-

cluded at a large expense to exhibit its own curiosities in its own building, I can not see why the great central feature of interest should be removed from its collection.

I have the honor to be,
Very respectfully yours,

H. H. Duell,
Commissioner of Patents.

After further consultation, and in all probability by direct order of the President, it was determined to accede to the Philadelphia request, and A. Bell, Chief Clerk of the Interior Department, carried the document to Philadelphia May 6, 1876.

Department of the Interior,
Washington, *May* 10th, 1876.

Hon. Z. Chandler,
Secretary of the Interior.
Sir:

I have the honor to report, that, in obedience to your instructions of the 5th inst., I conveyed to Philadelphia, Pa. on the morning of the 6th the original Declaration of Independence, and deposited the same in the safe provided for its reception in Independence Hall.

Mayor Stokley, on accepting the trust, desired me to convey to you the assurance that your action in returning the Declaration to the Hall in which it was signed was gratefully appreciated by the people of Philadelphia. He also wished me to say that the document would be guarded with jealous care, and returned to your Department at the close of the Centennial season. Permit me to add that the warm welcome which greeted this national relic on its arrival at Independence Hall, and the favorable comments of the City press thereon, were evidences of a popular recognition of the wisdom shown by the President and yourself, in directing the return of the Declaration to its time-honored home.

Thanking you for the honor conferred upon me, as the bearer of the sacred document, I remain,

Very Respectfully,

A. Bell,
C. C.

The exhibition having closed, an effort was made by the authorities of the city of Philadelphia to retain the Declaration in Independence Hall.

Clerk's Office, Common Council,

Philadelphia, *February* 15th, 1877.

To Hon. William S. Stokley,
Mayor of Philadelphia.

Sir:

This is to certify that the following is a true and correct copy of the original Resolution passed by the Select and Common Councils of the City of Philadelphia, Fifteenth day of February A. D., 1877, entitled,

Resolution

Relative to the Original Declaration of Independence:

Whereas, It is understood that steps are about to be taken under the direction of the Department of the Interior, at Washington, to have the Original Chart of the Declaration of Independence removed from Independence Hall, where it has been temporarily deposited since the opening of the Centennial Exhibition, back to the National Capital.

And Whereas, The State House of Pennsylvania has been dedicated by the Citizens of Philadelphia, to their fellow Countrymen of the United States as a perpetual monument to the founders of American Independence, and it is peculiarly appropriate that the Original Chart of the Declaration should be permitted to remain permanently in the building where it was signed and originally promulgated, as an

enduring object of interest to the ceaseless throng of visitors to that Historic spot, therefore,

Resolved, By the Select and Common Councils of the City of Philadelphia, That the National Authorities are hereby respectfully and earnestly requested to take the necessary action, legislative or otherwise, by which the said Chart may be suffered to remain deposited hereafter on exhibition in Independence Hall, under the care and custody of the Councils of the City of Philadelphia.

Resolved, That a certified copy of these Resolutions be forthwith transmitted by his Honor the Mayor to the President of the United States, the Secretary of the Department of the Interior, and the Members of Congress from Pennsylvania, and that the latter are hereby respectfully urged to invite their endeavors to secure the accomplishment of the object herein proposed.

Attest,

John Eckstein,
Clerk of Common Council.

The proposition met with a cool reception in Washington and was not pressed.

In the mean time the Secretary of State, being now in a new fireproof building, wrote to the Secretary of the Interior requesting the return to his office of the document, and the President approved the request. It was clear that its only proper abiding place was his Department under the terms of the act creating the Department.

Feby. 8th 77

The Honorable the
Secretary of State.

Sir:

In reply to your letter of the 5th inst. requesting the return to the Department of State of the original Declaration of

Independence, the Commission of General Washington, as Commander-in-Chief, and certain treaties with foreign powers, which request was approved by the President of the United States by endorsement on your letter, I have the honor to state that measures will immediately be taken by this Department to return the papers referred to, to the custody of the Department of State.

The Declaration of Independence was, at the request of prominent citizens of Philadelphia, with the approval of the President of the United States, deposited in Independence Hall, on the 6th of May last, in custody of the Committee on the Restoration of Independence Hall, to remain during the Centennial Exhibition, and has not yet been returned to this Department.

The Commissioner of Patents states that he is informed that the treaties with foreign powers, formerly in the custody of the Patent Office, were, some years since, transferred to the Smithsonian Institute. The Regent of the Institute has this day been requested to furnish to this Department any information relative thereto, which he may have, or to return the same to this Department if they are yet in his charge. Arrangements will be made immediately for the return of the Declaration of Independence to the Department in order that your request may be complied with at an early date.

Very respectfully,

Z. CHANDLER,
Secretary.

March 3, 1877.

The Honorable,
The Secretary of State.

Sir:

I have the honor, in compliance with the request contained in your letter of the 6th ult., endorsed by the President of the United States, to forward, herewith, the original Declara-

tion of Independence, and the Commission of General George Washington, as Commander-in-Chief.

Compliance with your request relative to these papers, was delayed by an effort on the part of prominent citizens of Philadelphia to have them retained permanently in Independence Hall, where they were placed during the Centennial Exhibition.

I have the honor also to transmit the treaties with foreign powers referred to in the schedule which accompanied your letter with the exception of the treaty between the United States and Great Britain of George the Third, 1784, which can not at present be accounted for. I send herewith, copy of a letter of Prof. Henry relative to the treaties.

Very respy, Your obt. servant,

Z. CHANDLER,
Secretary.

The missing treaty was subsequently found and sent to the Department.

The Declaration was placed in the library, where it remained on view until 1894.

The plan of the exhibit of the Department for the World's Fair at Chicago in 1893 included the display of the Declaration, because of the great patriotic interest in seeing it manifested by all classes of people; but when it became known that its transportation to a considerable distance and to a building not fireproof was contemplated, much opposition to its being thus jeopardized in its safety was manifested, and, acting upon several written protests, the Secretary of State ordered that it should not be moved.

The deterioration begun in 1876 increased and by 1894 the document had faded so that many of the signatures were invisible, except to the closest

inspection. The action taken on the subject is shown by the following:

Report of a Committee of the National Academy of Sciences on the Condition and Preservation of the Declaration of Independence.

NEW YORK, *April 24, 1903.*

Honorable JOHN HAY,
Secretary of State.

DEAR SIR: In response to a communication received from you, a committee was appointed by President Agassiz of the National Academy of Sciences to confer with you with regard to the present condition of the Declaration of Independence, and to make such recommendations as should seem desirable to insure the preservation of this precious instrument. The committee was also requested to send their report to you directly in order to avoid the delay which might result from reporting in the usual manner to the officers of the Academy. The members of the committee are John S. Billings, Ira Remsen, and Charles F. Chandler.

After conferring with you, the committee was given an opportunity to make a careful examination of the instrument with the assistance of Mr. A. H. Allen, Chief of the Bureau of Rolls and Library, and with the assistance of Dr. Wilbur M. Gray of the Army Medical Museum.

The instrument has suffered very seriously from the very harsh treatment to which it was exposed in the earlier years of the Republic. Folding and rolling have creased and broken the parchment. The wet press-copying operation, to which it was exposed about 1820, for the purpose of producing a facsimile copy, removed a large portion of the ink. Subsequent exposure to the action of light for more than thirty years, while the instrument was placed on exhibition, has resulted in the fading of the ink, particularly in the signatures. The present method of caring for the instrument seems to be the best that can be suggested.

The committee is pleased to find that no evidence of mould or other disintegrating agents can be discovered upon the parchment by careful microscopic examination; nor any evidence that disintegration is now in progress.

The investigation has been facilitated by the photograph that was taken in 1883, two years after the previous examination by a committee of the Academy, and we would suggest the desirability of taking another photograph of about the same size at the present time, and from time to time in the future as an aid to future investigations.

The committee does not consider it wise to apply any chemicals with a view to restoring the original color of the ink, because such application could be but partially successful, as a considerable percentage of the original ink was removed in making the copy about 1820, and also because such application might result in serious discoloration of the parchment; nor does the committee consider it necessary or advisable to apply any solution, such as collodion, paraffin, etc., with a view to strengthening the parchment or making it moisture proof.

The committee is of opinion that the present method of protecting the instrument should be continued; that it should be kept in the dark and as dry as possible, and never placed on exhibition.

CHARLES F. CHANDLER,
Chairman of the Committee.

CHAPTER XII

THE CONSTITUTION. CHIEF PUBLICATIONS. LIBRARY. RELICS. OBJECTS OF ART

OF equal importance with the Declaration of Independence is the Constitution of the United States, the original of which has never passed out of the Secretary of State's custody, but which has never been put on exhibition and has suffered no deterioration. In connection with it two important official publications must be noticed.

The first, edited by the Secretary of State, John Quincy Adams, was the *Journal, Acts and Proceedings of the Convention,* etc., published in Boston in 1819, under authority of a joint resolution of Congress of March 27, 1818. This was the official journal of the Convention which under the Convention's orders the Secretary, William Jackson, had turned over to the President of the Convention, General Washington, when it adjourned, to be kept by him until its place of deposit should be indicated by the Congress of the new government, if it should ever be formed. Washington did not, however, ask for directions from Congress, but seems to have concluded that, as it had deposited the records of the old government with the Department of State, that was the proper place for the records of the establishment of the new govern-

ment. They were turned over by him and receipted for by Secretary Timothy Pickering, March 16, 1796. When Adams edited them in 1818 they were in the immediate custody of the chief clerk, Daniel Brent.

Another important publication by the Department was entitled the "Documentary History of the Constitution of the United States of America, 1786-1870, Derived from the Records, Manuscripts, and Rolls deposited in the Bureau of Rolls and Library of the Department of State," edited by the Chief of the Bureau, Andrew Hussey Allen. The first two volumes appeared in 1894 and contained the records of the Annapolis Convention of 1786, the journal of the Federal Convention of 1787 and collateral papers, and amendatory and ratification proceedings of the states. Volume III appeared in 1900 and contained Madison's journal of debates in the Convention of 1787. Volumes IV and V were published in 1905, containing letters and papers relating to the Constitution taken from the historical collections then in the Bureau of Rolls and Library. Congress has never authorized a facsimile of the Constitution; but the document has been photographed.

It has been seen that the same provisions which applied to the publication of the laws were made applicable to the publication of treaties, which are the supreme law; but several separate compilations of collected treaties have been made for convenience. The first was a private publication entitled *Diplomatic Code of the United States of America embracing a Collection of Treaties and Conventions between the*

United States and Foreign Powers from the year 1778 to 1828, by Jonathan Elliot, published in Washington, 1827. It was under the patronage of the Secretary of State, Henry Clay, to whom it was dedicated. In the letter of Mr. Clay to Mr. Elliot, dated November 1, 1827, and printed at the beginning of the volume, he said: "It is, I believe, the first complete collection, in one volume, of our Treaties with Foreign Powers, which has been made." A second edition with additions was published in 1834. In 1848 the Little & Brown edition of the laws included the treaties in one volume, No. 8. On December 22, 1870, the Senate passed a resolution asking the Secretary of State "to prepare and transmit to the Senate copies of all the treaties and conventions (except postal conventions) entered into by the United States," which had been ratified. They were sent in on February 1, 1871, and printed that year by order of Congress under the title *Treaties and Conventions concluded between the United States of America and other Powers,* this being the first compilation of treaties issued directly from the Department of State. It was compiled under the direction of J. C. Bancroft Davis, the Assistant Secretary, and had notes by him showing what treaties or parts of treaties had been abrogated, with decisions thereon. In 1873 a second edition appeared with further notes by Mr. Bancroft Davis. In 1876, under supervision of his successor as Assistant Secretary, John L. Cadwalader, an edition of treaties concluded since May 1, 1870, was issued, with notes. The next issue was that compiled by John H. Haswell, Chief of

the Bureau of Indexes and Archives, issued in 1889 in accordance with a resolution of the Senate of January 5, 1885. It reproduced the Bancroft Davis notes with some additions. Subsequent editions have been less comprehensive, the next being that of 1899, compiled by Henry L. Bryan in accordance with the provisions of the Act of July 7, 1898, and entitled simply *Compilation of Treaties in Force.* A later edition was issued in 1904 under resolution of the Senate February 11, 1904, prepared by Mr. William M. Malloy and submitted to the Department before publication, but not prepared under its direction.

Following naturally the Department's publication of compilations of treaties with notes were the efforts made to digest the practice of this government on international questions so as to formulate the American interpretation of international law. Bancroft Davis's notes published in 1873 and Cadwalader's supplement in 1875 led up to the publication by the Department in 1877 of *A Digest of the Published Opinions of the Attorneys-General and of the Leading Decisions of the Federal Courts, with reference to International Law, Treaties, and Kindred Subjects,* compiled by Mr. Cadwalader in collaboration with Charles P. James, Esq., afterwards a judge of the Supreme Court of the District of Columbia, one volume of 290 pages. Ten years later, in 1886, the Department published Dr. Francis Wharton's great work in three volumes, to which a fourth was added in 1887 as a supplement, entitled, *A Digest of the International Law of the United States, taken from Documents*

Issued by the Presidents and Secretaries of State, and from Decisions of Federal Courts and Opinions of Attorneys-General. During the preparation of this work Dr. Wharton was Solicitor of the Department and had unusual facilities for successfully prosecuting his researches. The publication was authorized by Congress under joint resolution of July 28, 1886.[1]

After the lapse of another ten years, at the request of the Secretary of State, a second edition of Dr. Wharton's *Digest* was authorized by Act of February 20, 1897,[2] providing for the "revising, reindexing, and otherwise completing and perfecting with the aid of such documents as may be useful, the second edition of the International Law of the United States." The task of preparing this work was intrusted by the Secretary of State, Richard Olney, to William Hallett Phillips; but Mr. Phillips had hardly begun his labors when he died, and Mr. Olney's successor, John Sherman, selected John Bassett Moore to take Mr. Phillips's place. After nine years occupied in the task, Mr. Moore's monumental work was published in eight volumes, the eighth being an index, under the title, *A Digest of International Law as embodied in Diplomatic Discussions, Treaties and other International Agreements, International Awards, the Decisions of Municipal Courts, and the Writings of Jurists, and especially in Documents, published and unpublished, issued by Presidents and Secretaries of State of the United States, the Opinions of the*

[1] 24 *Stat.*, 345.
[2] 29 *Stat.*, 584.

Attorneys-General, and the Decisions of Courts, Federal and State (*1906*).

After the publication of Dr. Wharton's *Digest,* by joint resolution of August 13, 1888, Congress provided for the printing, "under the editorial charge of Francis Wharton," of a supplement to the *Digest* "containing the diplomatic correspondence of the American Revolution, with historical and legal notes." The "supplement" appeared in 1889 in six volumes under the title *The Revolutionary Diplomatic Correspondence of the United States, edited under direction of Congress by Francis Wharton with preliminary index, and notes, historical and legal.* The chief sources of material were the archives of the Continental Congress, the Washington, Jefferson, Franklin, and Madison papers, the papers of the old Department of Foreign Affairs, all then in the Department of State, and Franklin, Samuel and John Adams, John Paul Jones, Arthur Lee, John Langdon, and John Jay papers from other sources. This was the third publication, under the Department's supervision, of the diplomatic correspondence of the American Revolution, the first being made under the resolution of Congress of March 27, 1818, in twelve volumes published in 1829-1830, edited by Jared Sparks. Under authority of the Act of May 5, 1832, the Department prepared the seven volumes which appeared in 1833 printed in Washington by Francis Preston Blair, entitled *The Diplomatic Correspondence of the United States of America from the signing of the Treaty of*

Peace, 10th September, 1783, to the Adoption of the Constitution March 4, 1789.

As it was the project of printing a supplement to Wharton's *Digest* which gave us Wharton's *Diplomatic Correspondence,* so was the *Digest* the basis for John Bassett Moore's work on International Arbitrations. It was originally undertaken to form a part of the *Digest,* but expanded into a compilation more voluminous than the *Digest* itself, being published in 1898 by the Department, under the title, *History and Digest of the International Arbitrations to which the United States has been a Party, together with appendices containing the treaties relating to such Arbitrations, and historical and legal notes on other International Arbitrations, ancient and modern, and on the domestic commissions of the United States for the adjustment of International Claims.*

There was no regular periodical publication by the Department of the correspondence relating to foreign affairs until 1861, when the volumes of *Diplomatic Correspondence* appeared, and came out for each year up to 1868. The year 1869 was omitted, and for 1870 appeared the publication on the same plan with the title changed to *Foreign Relations of the United States,* which has continued ever since, being, however, often delayed for reasons of policy, the last publication being for 1908. In printing the diplomatic correspondence it is freely edited, only that portion the publicity of which can not disturb the diplomatic relations of the United States being given out. Dispatches which are in cipher are translated in para-

phrase. The most interesting correspondence of the Department does not appear in the volumes. The editing is usually performed in the Diplomatic Bureau, but the supervision is always by one of the Assistant Secretaries.

The President's annual message to Congress usually contains a statement of our relations with foreign Powers, and this serves as the annual report of the Secretary of State. A regular annual report to the President or Congress is required from the heads of other departments but not from him. When Richard Olney was Secretary, however, he made a report dated December, 1896, entitled "Report of the Secretary of State" for that year. It was intended to be the first annual report, but the example was not followed.

The general supervision of the Department's publications, their custody and distribution is a function of the Library of the Department. It was founded by Thomas Jefferson. In his estimates of expenses of June 17, 1790, he included subscriptions to fifteen American newspapers at an average of four dollars per year for each; $200 to begin a collection of the laws of the states, and $25 for the purchase of foreign gazettes, this amount including also payment for American papers to be sent to our agents abroad.[1] To this basis for a library should be added the laws and public documents deposited with the Department under various statutes, and books under the copyright law.

It was inevitable that some works on government

[1] *Ante*, p. 96.

and international law should find their way into an office occupied by such men of books as Jefferson and Madison. When the British invaded the city in 1814, no attempt was made to save the library and it was burned with the Department building. The work of collecting was taken up again as soon as the office was re-established. The Department was dependent upon its own library resources and did not have the privilege of drawing books from the Library of Congress, until it was granted by law January 30, 1830;[1] but probably it had the larger collection of the two. By 1831 the documents and laws had become so numerous that Congress appropriated $340 to pay for their storage.[2]

When Secretary McLane made his arrangement of the Department in 1833, the clerk who had charge of the Bureau of Pardons, Remissions and Copyrights was the librarian,[3] this being the first record of a Department librarian. The purchases for the library were from the general department fund, until the Act of August 17, 1882,[4] made a specific appropriation of $300 for the purpose. This amount was increased from time to time, and is now $2,000 for books, maps, and periodicals, domestic and foreign. The increasing expansion of the Library of Congress carried it into the same field in some respects as the library of the Department had occupied, and the latter has, in consequence, become a special library.

[1] *History of the Library of Congress, Johnston,* I, 373.
[2] 4 *Stat.,* 452.
[3] *Ante,* p. 203.
[4] 22 *Stat.,* 303.

The fifteen newspapers of Jefferson's day increased until the Department had files of all the chief newspapers throughout the country. They were stored on the fourth floor of that wing of the building which the Department now occupies, and, the space being required by the War Department, on September 1, 1882, 3,508 volumes of newspapers were sent to the Library of Congress, more being added the following year. The laws of the states the Department was required to collect under its organic act, and it had what was probably the completest set of session laws in the country. The volumes were transferred to the Congressional Library in 1911, under authority of the Act of February 25, 1903, which will be quoted presently.

Historical manuscripts of great value were placed in the library under various purchases. The Act of June 30, 1834, authorized the purchase of the books and manuscripts of George Washington for $25,000, and that of March 3, 1849, gave $20,000 for a remaining lot. The Act of March 3, 1837, allowed $30,000 for certain Madison papers and that of March 31, 1848, $25,000 for the rest of the collection. The Act of August 12, 1848, gave $20,000 for the Jefferson papers and the same amount for those of Alexander Hamilton, while this sum was allowed for James Monroe's papers, also, by the Act of March 3, 1849. The Act of August 7, 1882, appropriated $35,000 for the papers of Benjamin Franklin. All of these collections, and the papers of the Continental Congress deposited with the Department when it was created, were sent to the

Library of Congress in accordance with the following order:

The historical archives in the Department of State, known as the Revolutionary archives, and comprising (1) the records and papers of the Continental Congress; (2) the papers of George Washington; (3) the papers of James Madison; (4) the papers of Thomas Jefferson; (5) the papers of Alexander Hamilton; (6) the papers of James Monroe; (7) the papers of Benjamin Franklin; are by authority provided by the Act of Congress, entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the government for the fiscal year ending June 30, 1904, and for other purposes," approved February 25, 1903, hereby ordered to be transferred from the Department of State with such exceptions and reservations in each collection herein enumerated as in the discretion of the Secretary of State may be required for the continuity and completeness of the records and archives of the Department of State—to the possession and custody of the Library of Congress, to be there preserved and rendered accessible for historical and other legitimate uses under such rules and regulations as may from time to time be prescribed by the Librarian of Congress.

The transfer here directed shall be made on the 1st day of July, 1903, or as promptly thereafter as shall be found conveniently practicable to the Department of State and the Library of Congress.

THEODORE ROOSEVELT.

WHITE HOUSE, *March 9, 1903.*[1]

The act approved February 25, 1903, was:

The head of any Executive Department or bureau or any commission of the Government is hereby authorized from

[1] *Annual Report,* Librarian of Congress, 1903, 24, 25.

time to time to turn over to the Librarian of Congress, for the use of the Library of Congress, any books, maps, or other material in the Library of the Department, bureau, or commission no longer needed for its use, and in the judgment of the Librarian of Congress appropriate to the uses of the Library of Congress.[1]

The Department retained certain papers of the Continental Congress pertaining to foreign affairs, and the committee and Department of Foreign Affairs; Madison's journal of the debates in the Constitutional Convention, and some of Madison's letters on the subject of the formation of the Constitution.

Previous to this important transfer, the Department turned over to the War Department all muster rolls and purely military papers pertaining to the Revolution under the authority of the Act of August 18, 1894.[2]

The collecting of books has been in the direction of international law, American history, and foreign countries, the result being a select special library of approximately 55,000 volumes. No catalogue of the library has ever been printed; but from time to time special lists have been published, the most important of which are: in 1887 *Catalogue of the Works Relative to the Law of Nations and Diplomacy in the Library of the Department of State,* prepared under the direction of Theodore F. Dwight; under the same direction, *A List of Books Received at the Library of the Department of State, July 1-October 30, 1886, with References to International Treaties and Articles on*

1 Quoted in *Annual Report,* Librarian of Congress, 1903, 23.
2 28 *Stat.,* 403, 404.

Subjects Relative to the Law of Nations and Diplomacy in Magazines Received During the Same Period. The third, fourth, and fifth issues of these lists included indexes of the publications of the second session of the forty-ninth Congress which concerned the Department of State. These publications were discontinued, owing to the insufficient clerical force at the library's disposal. A new series was started by the Librarian, Andrew H. Allen, *A List of Books and Pamphlets Received at the Library of the Department of State, by Purchase, Exchange, and Gift, during the Period from May 27, 1892, to October 1, 1892, Supplemented by a List of Periodicals and Newspapers Now Currently Received.* The first issue appeared in October, 1892, and subsequent issues were made at irregular intervals up to 1905, when it was abandoned.

The library has never been a public one, although it has always been open to any responsible person for reference or research work; but books may be taken out from it only by the members of the Department staff and the diplomatic corps.

In the custody of the Library and exhibited in the room it occupies are certain relics and gifts which have come to the Department from time to time. There are the gold-headed staff which Benjamin Franklin carried, several buttons from the coat he wore when he was minister at the French court, a sword of General Washington's, one of General Jackson's, the great silver punch bowl and swords presented by the citizens of Philadelphia to Captain Isaac Hull, U. S. N., in 1812, and several other relics

of interest; but the most valuable of them all is the small, portable writing desk upon which Thomas Jefferson drafted the Declaration of Independence. It was deposited with the Department by President Hayes, with the following letter from Mr. Jefferson:

Th. Jefferson gives this writing desk to Joseph Coolidge junr as a memorial of affection. it was made from a drawing of his own, by Ben Randall, cabinet maker of Philadelphia, with whom he first lodged on his arrival in that city in May 1776 and is the identical one on which he wrote the Declaration of Independence. Politics, as well as Religion, has its superstitions. these, gaining strength with time, may one day give imaginary value to this relic for it's association with the birth of the Great charter of our Independence.

It has been the custom of the Department for many years past to have the portrait of each Secretary painted and hung upon the walls of the diplomatic reception room. Paintings of the earlier Secretaries have also been acquired, until the collection is complete, beginning with Thomas Jefferson. Before noticing a few of these better portraits, it is proper to speak of the best work of art in the Department's possession. This is the profile life-sized bust in marble of James Madison, which hangs in the Secretary's office. It was executed in 1792 by Giuseppe Ceracchi, an Italian sculptor of renown, who came to America soon after the Revolution and executed busts of Washington, Hamilton, and others. This bust was bought from the Madison estate by J. C. McGuire, Esq., of Washington, and bought by the Department from the McGuire estate when Thomas F. Bayard was

Secretary. Ceracchi had a scheme for a great monument to Liberty. Madison wrote of him, April 30, 1830:

> The Ceracchi named was an artist celebrated by his genius, and who was thought a rival, in embryo, to Canova, and doomed to the guillotine as the author or patron, guilty or suspected, of the infernal machine for destroying Bonaparte. I knew him well, having been a lodger in the same house with him, and much teased by his eager hopes, on which I constantly threw cold water, of obtaining the aid of Congress for his grand project. Having failed in this chance, he was advised by me and others to make the experiment of subscriptions, with the most auspicious names heading the list; . . . . but just as the circular address was about to be despatched, it was put into his head that the scheme was merely to get rid of his importunities, and, being of the genus irritabile, he suddenly went off in anger and disgust, leaving behind him heavy drafts on General Washington, Mr. Jefferson, etc., etc., for the busts, etc., he had presented to them. His drafts were not the effect of avarice, but of his wants, all his resources having been exhausted in the tedious pursuit of his object. He was an enthusiastic worshipper of Liberty and Fame; and his whole soul was bent on securing the latter by rearing a monument to the former, which he considered as personified in the American Republic. Attempts were made to engage him for a statue of General W., but he would not stoop to that.[1]

Coming to the portraits, that of Henry Clay by Edward Dalton Marchant, bought from Mrs. Marchant September 29, 1890, under a special appropriation by Congress, is one of the best. In urging its purchase upon Congress, Secretary Blaine said, in a letter to

[1] *Madison's Works*, IV, 71.

the chairman of the Library Committee of the House of Representatives, April 25, 1890:

> It is, in my opinion, very desirable that the Department should be enabled to purchase these portraits for its gallery of Secretaries. . . . . The portrait of Mr. Clay is, as I have previously said, perhaps the finest portrait of him in existence; and that of Mr. Adams, I am sure from my own recollection of him, is a faithful likeness.

June 20, 1890, Mr. Blaine wrote to Senator Hale:

> The portraits of Henry Clay and John Quincy Adams, offered for sale as former Secretaries of State, are the best that have ever been seen in the Department. I am very anxious to have them purchased.

The portrait of John Quincy Adams, to which Mr. Blaine alluded, also by Marchant, was bought at the same time with the Clay portrait, $2,500 being paid for the two; but by some action of which there is no record the Adams portrait was subsequently moved from the Department and hung in the office of the (then) Legation at London, where it is now. The two portraits painted by George Peter Augustus Healy of Alexander Baring (Lord Ashburton) and Daniel Webster, were executed, the former in 1843 and the latter in 1848, in commemoration of the negotiations by them of the Webster-Ashburton treaty, which defined the northeastern boundary of the United States. Nearly forty years later, in 1883, Mr. Healy painted the portrait of Elihu B. Washburne. In 1891 the Department acquired the interesting portrait of John Quincy Adams by Jean Baptiste Adolphe Gibert of Rome, which was painted probably somewhere

about 1830, when Gibert visited Washington. Daniel Huntington's Fish and Frelinghuysen are also noteworthy portraits. In addition the Department has one of Charles Willson Peale's portraits of Washington, a work which was much approved of at one time, but is supposed to have been marred when it was cleaned and repaired in 1840.[1] It was bought when John Quincy Adams was Secretary of State.

[1] *Descriptive Catalogue of the Collection of Portraits in the Department of State,* 1900.

CHAPTER XIII

THE DIPLOMATIC AND CONSULAR SERVICE

THE management of foreign affairs being the most important of the regular duties of the Department, the supervision of the diplomatic and consular service is its chief duty. The general rules which govern the foreign service are found in the works on international law and particularly in the American digests; but two special publications have been issued by the Department of State for the guidance of its agents abroad—the *Diplomatic Instructions* and the *Consular Regulations.*

The *Diplomatic Instructions* were formerly only a printed circular. When John Quincy Adams was Secretary of State in 1820 he conceived the idea of having two sets of instructions for diplomatic officers—general instructions applicable to all, and personal instructions applicable to a particular mission or officer.[1] The general instructions were to include: "their correspondence with each other; their deportment to the sovereign to whom they are accredited, and to the Diplomatic corps of the same Court; their relations with the Consuls of the United States in the same countries; their duties with regard to granting passports; to insist upon the alternative in signing treaties, and to decline accepting the presents usually

[1] Diary, V, 143.

given by Kings on the conclusion of treaties and to departing ministers." He thought that even more comprehensive standing instructions would be useful. The *Diplomatic Instructions* dates from Adams's administration.

Additions to the regulations were made from time to time, until, under the supervision of William Woodville Rockhill, Assistant Secretary, they were paragraphed as in the case of the *Consular Regulations* and issued as a separate volume in 1897.

The *Consular Regulations* is a far more bulky book and its tendency is to increase in size. There are more than 1,200 people in the American consular service, and the rules for their conduct are embodied in some 3,000 paragraphed regulations. The first issue of the book was in 1855, when William L. Marcy was Secretary of State, and followed the Act of March 1, 1855, remodeling the consular service, this book being entitled *General Instructions to the Consuls and Commercial Agents of the United States, Prepared under the Direction of the Department of State.* The Act of August 18, 1856, provided for a second edition, which appeared in 1857, entitled *Regulations Prescribed by the President for Consular Officers of the United States.* The next issue was in 1870, Hamilton Fish being Secretary of State; another was in 1874; another in 1881; another in 1888; the last in 1896.

These regulations are issued by the President in accordance with law and have the force of law. They are prepared chiefly in the Consular Bureau, but many

hands enter into their composition. When a new edition is to be issued they are sent to the White House for the President's approval, which is commonly given *pro forma;* but when the copy for the edition of 1888 was sent to President Cleveland for his signature he kept it beyond the time occupied by the routine usual in such cases. According to the report circulated, he read the regulations through before he approved them and declared he had found them interesting.

Since President Roosevelt's order of June 27, 1906, with respect to consuls, and President Taft's order of November 26, 1909, with respect to secretaries of embassy and legation, the selection of those who are to enter the service has proceeded according to a system which the Department executes.

The first consul of the United States was William Palfrey, appointed by the Continental Congress November 4, 1780, at an annual salary of $1,500, to reside in France. No consular system was then adopted, however, nor was one prescribed by Congressional authority until some years after the Department of State was organized.[1] In 1790 Washington appointed six consuls and ten vice-consuls under his general constitutional authority, and on August 29, 1790, Secretary Jefferson issued a circular prescribing their duties. They served, however, without compensation, except as they derived it from fees charged the

[1] See Wilbur J. Carr's comprehensive paper, "The American Consular Service," in *The American Journal of International Law* for October, 1907, for a fuller account of the service and its reorganization.

individuals for whom they did services. Americans engaged in trade in foreign ports were selected as consuls, but in some places where there were no Americans, foreigners were appointed. The Acts of April 14, 1792, February 28, 1803, and March 1, 1823, defined a consul's duties. Martin Van Buren, as Secretary of State, in a report dated February 10, 1830,[1] made important recommendations on the subject of a consular system. His report was followed by one of equal consequence by Secretary Edward Livingston, which President Jackson sent to Congress March 2, 1833.[2] Other reports were made, but it was not until March 1, 1855, that a bill was passed remodeling the service. In an amended form it was passed August 18, 1856,[3] and was the act under which the service was conducted for fifty years, until June 30, 1906, when the Act of April 5 of that year went into effect.

The Act of 1856 was intended to create a corps of consuls having permanent tenure of their offices, but the "spoils system" defeated this purpose and the consuls were appointed and removed for political or personal reasons. The tenure of office was short and uncertain and the service as a whole was inefficient. The Department had the training of the consuls, but most of them were put out of office before they were trained. Many efforts were made to remedy the evil. In 1866 an order required the examination of applicants for consulates, but only one examination was

[1] Senate Report No. 57, 21st Congress, 2d Session.
[2] Senate Doc. No. 83, 22d Congress, 2d Session.
[3] 11 *Stat.*, 64.

held. Executive orders of April 16, 1872, and March 14, 1873, issued under the Civil Service Act of March 3, 1871, outlined a plan of appointment not unlike that now followed, but the civil service law was effectually repealed by the failure of Congress to appropriate for the pay of the Civil Service Commission.

Successive attempts to secure legislation failed, but by an order of June 20, 1895, President Cleveland provided for a merit system of appointment for consulates having salaries of more than $1,000 and not more than $2,500 per annum. This order was effective during the remaining year of Mr. Cleveland's term, but his successor reverted to the old system, which continued to flourish until the executive order of 1906 went into effect.

The order is as follows:

Whereas, the Congress, by § 1753 of the Revised Statutes of the United States, has provided as follows:

"The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service."

And, whereas, the Congress has classified and graded the consuls-general and consuls of the United States by the act entitled "An Act to provide for the reorganization of the consular service of the United States," approved April 5,

1906, and has thereby made it practicable to extend to that branch of the civil service the aforesaid provisions of the Revised Statutes and the principles embodied in the Civil Service Act of January 16, 1883.

Now, therefore, in the exercise of the powers conferred upon him by the Constitution and laws of the United States, the President makes the following regulations to govern the selection of consuls-general and consuls in the civil service of the United States, subject always to the advice and consent of the Senate:

1. Vacancies in the office of consul-general and in the office of consul above class 8 shall be filled by promotion from the lower grades of the consular service, based upon ability and efficiency as shown in the service.

2. Vacancies in the office of consul of class 8 and of consul of class 9 shall be filled:

(*a*)[1] By promotion on the basis of ability and efficiency as shown in the service, of consular assistants[2] and of vice consuls, deputy consuls, consular agents, student interpreters and interpreters in the consular or diplomatic service, who shall have been appointed to such offices upon examination.

(*b*) By new appointments of candidates who have passed a satisfactory examination for appointment as consul as hereafter provided.

3. Persons in the service of the Department of State with salaries of two thousand dollars or upwards shall be eligible for promotion, on the basis of ability and efficiency as shown in the service, to any grade of the consular service above class 8 of consuls.

4. The Secretary of State, or such officer of the Department of State as the President shall designate, the Director of the Consular Service, the Chief of the Consular Bureau,[3]

[1] As amended by Executive orders of December 12, 1906, and April 20, 1907.

[2] As amended by the act approved May 21, 1908.

[3] As amended by Executive order of December 8, 1909.

and the Chief Examiner of the Civil Service Commission, or some person whom said Commission shall designate, shall constitute a Board of Examiners for admission to the consular service.

5. It shall be the duty of the Board of Examiners to formulate rules for and hold examinations of applicants for admission to the consular service.

6. The scope and method of the examinations shall be determined by the Board of Examiners, but among the subjects shall be included at least one modern language other than English; the natural, industrial and commercial resources and the commerce of the United States, especially with reference to the possibilities of increasing and extending the trade of the United States with foreign countries; political economy; elements of international, commercial and maritime law.

7. Examination papers shall be rated on a scale of 100, and no person rated at less than 80 shall be eligible for certification.

8. No one shall be examined who is under twenty-one or over fifty years of age, or who is not a citizen of the United States, or who is not of good character and habits and physically and mentally qualified for the proper performance of consular work, or who has not been specially designated by the President for appointment to the consular service subject to examination.

9. Whenever a vacancy shall occur in the eighth or ninth class of consuls which the President may deem it expedient to fill, the Secretary of State shall inform the Board of Examiners, who shall certify to him the list of those persons eligible for appointment, accompanying the certificate with a detailed report showing the qualifications, as revealed by examination, of the persons so certified. If it be desired to fill a vacancy in a consulate in a country in which the United States exercises extra-territorial jurisdiction, the Secretary of State shall so inform the Board of Examiners, who shall

include in the list of names certified by it only such persons as have passed the examination provided for in this order, and who also have passed an examination in the fundamental principles of the common law, the rules of evidence and the trial of civil and criminal cases. The list of names which the Board of Examiners shall certify shall be sent to the President for his information.

10. No promotion shall be made except for efficiency, as shown by the work that the officer has accomplished, the ability, promptness and diligence displayed by him in the performance of all his official duties, his conduct and his fitness for the consular service.

11.[1] It shall be the duty of the Board of Examiners to formulate rules for and hold examinations of persons designated for appointment as consular assistant[2] or as student interpreter, and of such persons designated for appointment as vice consul, deputy consul and consular agent, as shall desire to become eligible for promotion. The scope and method of such examination shall be determined by the Board of Examiners, but it shall include the same subjects hereinbefore prescribed for the examination of consuls. Any vice consul, deputy consul or consular agent now in the service, upon passing such an examination shall become eligible for promotion, as if appointed upon such examination.

12. In designations for appointment subject to examination and in appointments after examination, due regard will be had to the rule, that as between candidates of equal merit, appointments should be so made as to secure proportional representation of all the States and Territories in the consular service; and neither in the designation for examination or certification or appointment will the political affiliations of the candidate be considered.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *June 27th, 1906.*

[1] As amended by Executive order of December 12, 1906.

[2] As amended by the act approved May 21, 1908.

President Taft issued the following with respect to examinations:

No officer or employee of the Government shall, directly or indirectly, instruct or be concerned in any manner in the instruction of any person or classes of persons, with a view to their special preparation for the examinations of the Boards of Examiners for the diplomatic and consular services.

The fact that any officer or employee is found so engaged shall be considered sufficient cause for his removal from the service.

WM. H. TAFT.

THE WHITE HOUSE, *December 23, 1910.*

This order has been held not to apply to professional instruction in a university where some of the class may contemplate taking the consular examination.

Following the order, the Department prescribed the following:

REGULATIONS GOVERNING EXAMINATIONS PROMULGATED BY THE BOARD OF EXAMINERS DECEMBER 13, 1906

1. The examinations will be the same for all grades and will be to determine a candidate's eligibility for appointment in the consular service, irrespective of the grade for which he may have been designated for examination and without regard to any particular office for which he may be selected.

2. The examinations will consist of an oral and a written one, the two counting equally. The object of the oral examination will be to determine the candidate's business ability, alertness, general contemporary information, and natural fitness for the service, including moral, mental, and physical qualifications, character, address, and general education and good command of English. In this part of the examination the applications previously filed will be given due weight by the Board of Examiners, especially as evidence of the appli-

cant's business experience and ability. The written examination will include those subjects mentioned in the Executive order, to wit, at least one modern language other than English—French, German, or Spanish;[1] the natural, industrial, and commercial resources and the commerce of the United States, especially with reference to possibilities of increasing and extending the foreign trade of the United States; political economy, and the elements of international, commercial, and maritime law. It will likewise include American history, government, and institutions; political and commercial geography; arithmetic (as used in commercial statistics, tariff calculations, exchange, accounts, etc.); the modern history, since 1850, of Europe, Latin America, and the Far East, with particular attention to political, commercial, and economic tendencies. In the written examination, composition, grammar, punctuation, spelling, and writing will be given attention.

3. To become eligible for appointment, except as student interpreter, in a country where the United States exercises extraterritorial jurisdiction, the applicant must pass the examination outlined above, but supplemented by questions to determine his knowledge of the fundamental principles of common law, the rules of evidence, and the trial of civil and criminal cases.

4. The examinations to be given candidates for appointment as student interpreters will follow the same course as in the case of other consular officers, provided, however, that no one will be examined for admission to the consular service as a student interpreter who is not between the ages of nineteen and twenty-six, inclusive, and unmarried; and, provided further, that upon appointment each student interpreter shall sign an agreement to continue in the service so long as his services may be required, within a period of five years.

5. Upon the conclusion of the examinations the names of the candidates who shall have attained upon the whole exami-

[1] As amended by the Board of Examiners February 18, 1911.

nation an average mark of at least eighty, as required by the Executive order, will be certified by the Board to the Secretary of State as eligible for appointment in the consular service, and the successful candidates will be informed that this has been done.

6. The names of candidates will remain on the eligible list for two years, except in the case of such candidates as shall within that period be appointed, or as shall withdraw their names, and of candidates holding subordinate positions in the consular service, when eligibility shall not expire until appointment to consular rank or until separation from the service. Candidates whose names have thus been dropped from the eligible list will not again be eligible for appointment unless upon fresh application, designation anew for examination, and the successful passing of such second examination.

The Act of May 21, 1908, alluded to in the order, was the appropriation act which reduced the period for which a student interpreter is required to sign an agreement to continue in the service from ten to five years. Following are the supplementary orders referred to:

Amendments to the Regulations governing appointments and promotions in the Consular service, dated June 27, 1906.

Let student interpreters be included under paragraph 2 sub-division (a) and under paragraph 11, on the same footing as vice consuls, deputy consuls and consular agents.

THEODORE ROOSEVELT

THE WHITE HOUSE
December 12, 1906.

Section 2 (a) of the order of June 27, 1906, in regard to appointments and promotions in the consular service, is hereby amended to read as follows:

Section 2 (a). By promotion on the basis of ability and efficiency as shown in the service, of consular clerks and of vice consuls, deputy consuls, consular agents, student interpreters and interpreters in the consular or diplomatic service, who shall have been appointed to such offices upon examination.

THEODORE ROOSEVELT

THE WHITE HOUSE,
April 20, 1907.

Section IV of the Order of June 27, 1906, prescribing regulations for appointments and promotions in the consular service, is hereby amended by substituting "Director of the Consular Service, the Chief of the Consular Bureau" for "Chief Clerk of the Department of State."

WM H TAFT

THE WHITE HOUSE,
December 8, 1909.

The Regulations governing examinations promulgated by the Board of Examiners for the Consular Service, December 13, 1906, are hereby amended by the substitution of the words "at least one modern language other than English—French, German, or Spanish" for the words "French, German, or Spanish, or at least one modern language other than English" in paragraph two thereof.

CHANDLER HALE
Third Assistant Secretary of State,
Chairman, Board of Examiners.

WILBUR J. CARR
Director of the Consular Service.

G. R. WALES
Chief Examiner, Civil Service Commission.

HERBERT C. HENGSTLER
Chief, Consular Bureau.

February 18, 1911.

October 25, 1911.

Board of Examiners for the Consular Service.

Section 6 of the Regulations governing examinations, promulgated December 13, 1906, is hereby amended to read as follows:

"The names of candidates will remain on the eligible list for two years, except in the case of such candidates as shall within that period be appointed, or as shall withdraw their names, and of candidates holding subordinate positions in the consular service, when eligibility shall not expire until appointment to consular rank or until separation from the service. Candidates whose names have thus been dropped from the eligible list will not again be eligible for appointment unless upon fresh application, designation anew for examination, and the successful passing of such second examination."

CHANDLER HALE
Third Assistant Secretary of State,
Chairman.

WILBUR J. CARR
Director of the Consular Service.

HERBERT C. HENGSTLER
Chief, Consular Bureau.

G. R. WALES
Chief Examiner, Civil Service Commission.

Along with the efforts for reform of the consular service, but less vigorously, has grown a demand for a merit system of appointment in the diplomatic service. The bill with which the successful agitation for the reform began was introduced in the Senate by Senator Morgan of Alabama in 1895 and included the diplomatic service in its scope, but this feature was

dropped out of the subsequent bills. So far as the subordinate diplomatic offices are concerned, the improvement desired has been effected by the following order of President Taft:

Whereas, the Congress, by § 1753 of the Revised Statutes of the United States has provided as follows:

"The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service."

And, Whereas, it is deemed best for the public interest to extend to the diplomatic service the aforesaid provision of the Revised Statutes and the general principles embodied in the Civil Service Act of January 16th, 1883:

(1) The Secretary of State is hereby directed to report from time to time to the President, along with his recommendations, the names of those secretaries of the higher grades in the diplomatic service who by reason of efficient service have demonstrated special capacity for promotion to be chiefs of mission.

(2) There shall be kept careful efficiency records of every officer of the diplomatic service, in order that there may be no promotion except upon well established efficiency as shown in the service, and that retention in the service may be conditioned upon the officers' maintaining a degree of efficiency well up to the average high standard which the interests of the service demand.

(3) Initial appointments from outside the service to secretaryships in the diplomatic service shall be only to the

classes of Third Secretary of Embassy, or, in case of higher existent vacancies, of Second Secretary of Legation, or of Secretary of Legation at such post as has assigned to it but one secretary. Vacancies in secretaryships of higher classes shall be filled by promotion from the lower grades of the service, based upon efficiency and ability as shown in the service.

(4) To make it more practicable to extend to the appointment, promotion, transfer, or retention of secretaries in the diplomatic service the civil service principle of promotion on the basis of efficiency as shown in the service, and in order that the action of the Department may be understood by the officers concerned, all secretaryships in the diplomatic service shall be graded according to the importance, volume, difficulty, or other aspects of the work done by each mission in proportion to the number of men allotted to it, and this classification shall be made known to the members of the service.

(5) A person separated from a secretaryship in the diplomatic service without delinquency or misconduct at his own request in writing may, within a period of one year from the date of such separation, be reinstated in the grade from which he was separated, provided he shall have been originally appointed after the prescribed examination for that grade. In the event, however, that such separation shall be for the purpose of undertaking other work under the Department of State, the limitation of one year for eligibility for reinstatement shall not hold. This rule shall be applicable as regards reinstatements to the consular service and also to the Department of State when transfers shall have been to another branch of the foreign service.

(6) The Assistant Secretary of State, the Solicitor for the Department of State, the Chief of the Diplomatic Bureau, and the Chief of the Bureau of Appointments, and the Chief Examiner of the Civil Service Commission or some person whom the Commission shall designate, or such persons as may

be designated to serve in their stead, are hereby constituted a Board whose duty it shall be to determine the qualifications of persons designated by the President for examination to determine their fitness for possible appointment as secretaries of embassy or legation.

(7) The examination herein provided for shall be held in Washington at such times as the needs of the service require. Candidates will be given reasonable notice to attend, and no person shall be designated to take the examination within thirty days of the time set therefor.

(8) The examinations shall be both oral and in writing and shall include the following subjects:—international law, diplomatic usage, and a knowledge of at least one modern language other than English, to wit, French, Spanish, or German; also the natural, industrial and commercial resources and the commerce of the United States, especially with reference to the possibilities of increasing and extending the trade of the United States with foreign countries; American history, government and institutions; and the modern history since 1850 of Europe, Latin America and the Far East. The object of the oral examination shall also be to determine the candidate's alertness, general contemporary information, and natural fitness for the service, including mental, moral, and physical qualifications, character, address, and general education and good command of English. In this part of the examination the applications previously filed will be given due weight by the Board of Examiners. In the determination of the final rating, the written and oral ratings shall be of equal weight. A physical examination shall also be included as supplemental.

(9) Examination papers shall be rated on a scale of 100, and no person with a general rating of less than 80 shall be certified as eligible.

No person shall be certified as eligible who is under twenty-one or over fifty years of age, or who is not a citizen of the United States, or who is not of good character and habits and

physically, mentally, and temperamentally qualified for the proper performance of diplomatic work, or who has not been specially designated by the President for appointment to the diplomatic service subject to examination and subject to the occurrence of an appropriate vacancy.

(10) Upon the conclusion of the examinations, the names of the candidates who shall have attained upon the whole examination the required mark will be certified by the Board to the Secretary of State as eligible for appointment.

(11) The names of candidates will remain on the eligible list for two years, except in the case of such candidates as shall within that period be appointed or shall withdraw their names. Names which have been on the eligible list for two years will be dropped therefrom and the candidates concerned will not again be eligible for appointment unless upon fresh application, designation anew for examination, and the successful passing of such second examination.

(12) Applicants for appointment who are designated to take an examination and who fail to report therefor, shall not be entitled to take a subsequent examination unless they shall have been specifically designated to take such subsequent examination.

In designations for appointment subject to examination and in appointments after examination, due regard will be had to the rule, that as between candidates of equal merit, appointments should be made so as to tend to secure proportional representation of all the States and Territories in the diplomatic service; and neither in the designation for examination or certification or appointment after examination will the political affiliations of the candidates be considered.

(13) The Board of Examiners is authorized to issue such notices and to make all such rules as it may deem necessary to accomplish the object of this regulation.

(14) Transfers from one branch of the foreign service to another shall not occur except upon designation by the President for examination and the successful passing of the

examination prescribed for the service to which such transfer is made. Unless the exigencies of the service imperatively demand it, such person to be transferred shall not have preference in designation for the taking of the examination or in appointment from the eligible list, but shall follow the course of procedure prescribed for all applicants for appointment to the service which he desires to enter. To persons employed in the Department of State at salaries of eighteen hundred dollars or more, the preceding rule shall not apply and they may be appointed, on the basis of ability and efficiency, to any grade of the diplomatic service.

(15) The Secretary of State may, as provided by Rule III of the present Civil Service Rules, request the Civil Service Commission to hold special examinations for the position of clerk of class two or above in the Department of State, such examination to follow generally and so far as the Secretary of State shall deem practicable, the lines of the present foreign service examinations.

(16) In the case of promotions in the Department of State to the grades of clerk of class two or above, the Secretary of State may require the passing of an examination in the general nature of the present diplomatic or consular service examinations.

(17) With further reference to the matter of promotions in the Department of State, the Secretary of State is directed to cause to be kept, as a guide in determining the promotion or retention of the personnel, a careful record of the efficiency of each clerk in the Department.

WM. H. TAFT.

THE WHITE HOUSE, *November 26, 1909.*

This was supplemented by:

INFORMATION FOR APPLICANTS

Diplomatic service examinations are not held at regularly stated periods, but only at such times as it is deemed expedient to replenish the list of those eligible for such appoint-

ment. The dates of the holding of examinations are publicly announced through the press.

Although designations for examination are made by the President, applications for appointment should be addressed to the Secretary of State.

An application is considered as pending for a period of two years. After such period has elapsed without its being acted upon, another application with endorsements will be necessary to obtain for it further consideration.

Applicants for appointment, in their correspondence with the Department, should always sign their names as given in their applications, without enlargement or contraction.

CHAPTER XIV

PASSPORTS. AUTHENTICATIONS. REGISTRATIONS

THE highest duty of an American diplomatic or consular officer is to protect citizens of the United States in lawful pursuit of their affairs in foreign countries. The document issued in authentication of the right to such protection is the passport.[1]

Broadly speaking, the Department issues two kinds of passports—those for citizens and those for persons who are not citizens. Citizens' passports are ordinary and special; aliens' passports are for travel in the United States and for qualified protection abroad of those who have taken the first steps to become American citizens.

The citizen's passport is the only document issued by the Department of State to authenticate the citizenship of an American going abroad. The Act of August 18, 1856,[2] makes the issuance to one who is not a citizen a penal offense, if it is committed by a consular officer.[3] Before this law was passed the Department did not issue the document to aliens; but it was

[1] See *The American Passport, its History and a Digest of Laws, Rulings and Regulations governing its issuance by the Department of State,* 1898.

[2] 11 *Stat.,* 60.

[3] R. S. U. S. 4078.

permitted to this government's agents abroad sometimes to do so. The *Personal Instructions to the Diplomatic Agents of the United States* of 1853 said:

> They sometimes receive applications for such passports from citizens of other countries; but these are not regularly valid, and should be granted only under special circumstances, as may sometimes occur in the case of foreigners coming to the United States.

In July, 1845, the Department printed a notice "for the information of citizens of the United States about to visit foreign countries," which said:

> To prevent delay in obtaining a passport, the application should be accompanied by such evidence as may show the applicant to be a citizen of the United States (when that fact is not already known to the Department of State).

The first passport found in the files of the Department is dated July 8, 1796, and is on a printed form showing that it was in common use:

> To all to whom these presents shall come, Greeting:
>
> The Bearer hereof, Francis Maria Barrere a citizen of the United States of America, having occasion to pass into foreign countries about his lawful affairs, these are to pray all whom it may concern, to permit the said Francis Maria Barrere (he demeaning himself well and peaceably) to pass whereso-ever his lawful pursuits may call him, freely and without let or molestation in going, staying or returning, and to give him all friendly aid and protection, as these United States would do to their citizens in the like case.
>
> In faith whereof I have caused the seal of the Department of State for the said United States to be hereunto affixed.
>
> Done at Philadelphia, this eighth day of July in the year

of our Lord 1796, and of the Independence of these states the twenty-first.

TIMOTHY PICKERING,
Secretary of State.

(Gratis)

Undoubtedly, such a passport as the above was issued by the Secretary of State from the beginning of the government under the Constitution, as it had been by the Continental Congress and the Governors or Presidents of the states under the old government. In fact, the practice of state authorities issuing passports maintained until, by the Act of August 18, 1856, it was made unlawful for any one but the Secretary of State to issue a passport in the United States. Much imposition and fraud were practiced by persons not citizens in obtaining American passports. The condition of affairs in 1835 was thus described by the Supreme Court:

> There is no law of the United States in any manner regulating the issuing of passports, or directing upon what evidence it may done, or declaring their legal effect. It is understood, as a matter of practice, that some evidence of citizenship is required by the Secretary of State before issuing a passport. This, however, is entirely discretionary with him.

The evidence required before issuance consisted chiefly of letters from the applicants themselves or from third persons known to the Department, or certificates from notaries public that the applicants were citizens of the United States. The Department's circular of 1845 produced an improvement in the character of the applications for passports and they

were often in the form of affidavits. A circular issued in 1846 required that the application be in the form of an affidavit and that it be accompanied by the certificate of naturalization if the applicant was of alien birth.

The twenty-third section of the Act of August 18, 1856, making it a penal offense for anybody in the United States except the Secretary of State to issue passports or documents in the nature of passports, a circular of instructions stating this fact was issued by the Department in August, 1857. The requirements of applicants became more and more detailed by successive circulars, until on September 15, 1896, they were changed by Secretary Olney from *General Instructions* to *Rules Governing Applications for Passports.*

The Act of August 18, 1856, had, however, required that passports should be issued "under such rules as the President" should prescribe. The rules had never been prescribed by the President, until Secretary William R. Day sent the following letter to the President:

DEPARTMENT OF STATE,

WASHINGTON, May 21, 1898.

To the President:

I have the honor to submit for your approval certain Rules Governing the Granting and Issuing of Passports in the United States. That they should be prescribed by the President appears, in the opinion of this Department, to be rendered necessary by the terms of the Act of Congress approved August 18, 1856 (11 Stat. 60; Rev. Stats. Sec. 4075), as follows:

"The Secretary of State may grant and issue passports, and cause passports to be granted, issued and verified in foreign countries by such diplomatic or consular officers of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States; and no other person shall grant, issue, or verify any such passport."

Respectfully submitted,
WILLIAM R. DAY.

The form of passport issued in the beginning had undergone a change by 1817, when it was made to include a description of the person to whom it was issued, and thereafter slight modifications were made. At present it is as follows:

Good only for
two years from date.

[ARMS]

UNITED STATES OF AMERICA,

DEPARTMENT OF STATE,

To all to whom these presents shall come, Greeting:

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit *Mary L. Matthews,* a Citizen of the United States safely and freely to pass, and in case of need to give *her* all lawful Aid and Protection.

Given under my hand and the Seal of the Department of State, at the City of Washington, the *14th* day of *April* in the year 1908, and of the Independence of the United States the one hundred and thirty-second.

Elihu Root.

Description,
Age, *43* Years.
Stature, *5* Feet, *3½* Inches Eng.
Forehead, *fair.*
Eyes, *grey.*
Nose, *small.*
Mouth, *small.* [SEAL]
Chin, *round.*
Hair, *brown.*
Complexion, *fair.*
Face, *medium.*
Signature of the Bearer.
Mary L. Matthews.

No. *49760.*

The special passport is also a citizen's passport, but it differs in form from the ordinary passport, in that it usually describes the official rank or occupation of the person to whom it is issued and does not describe his person. He is not required to make formal application for it or to produce proof of his citizenship, it being presumed that the Department is already informed on this point. The earliest record of a special passport is in 1819; but it is probable that they were issued from the beginning of the government. The form has varied widely; but the request for the protection of the holder has been the same as in the ordinary passport. Following is the form at the present time:

[ARMS]

No. *48799.*

(Special Passport.)

UNITED STATES OF AMERICA,

DEPARTMENT OF STATE,

To all to whom these presents shall come, Greeting:

Know Ye, that the bearer hereof,

Charles Ray Dean,

a citizen of the United States, Special Disbursing Officer of the Commission of the United States to the International Exposition at Turin, is about to proceed abroad, accompanied by his wife.

These are therefore to request all whom it may concern to permit *him* to pass freely without let or molestation, and to extend to *him* all such friendly aid and protection, as would be extended to like *Officers* of Foreign Governments resorting to the United States.

IN TESTIMONY WHEREOF, I, *P. C. Knox,* Secretary of State of the United States of America, have hereunto set my hand and caused the Seal of the Department of State to be affixed at Washington this *25th* day of *April* A. D. 1911 and of the Independence of the United States of America, the *135th.*

[SEAL]

P. C. Knox.

The Act of March 23, 1888,[1] requires the Secretary of State to collect a fee of one dollar for every citizen's passport issued, and the same fee is required to be collected by American diplomatic and consular officers when they issue passports abroad. In the early days of the Department no fee was charged. The form of passport issued in 1796 had "Gratis" printed on it; the circulars of instruction of 1845, 1846, and 1857 stated that no fee was charged. The Act of July 1, 1862, "to provide internal revenue to support the Government and to pay interest on the public debt," prescribed a fee of three dollars for each passport issued at home or abroad. By Act of June 30, 1864,[2] the amount was increased to five dollars. The fee was abolished by Act of July 14, 1870,[3] restored to five dollars by Act of June 20, 1874,[4] and remained at that amount until the law now in force was passed. The amount collected from the fees has never been large, but is sufficient to make the Bureau of Citizenship, which issues passports, self-sustaining.

It had not been the custom to collect the fee for special passports, and the matter was supposed to be within the discretion of the Secretary of State. Special passports differed in wording from ordinary passports, and they were in a measure complimentary. But in 1894 the question was raised, whether, in view of the language of the law requiring the collection of the fee for "each citizen's passport issued," it was per-

[1] 25 *Stat.*, 45.
[2] 13 *Stat.*, 276.
[3] 16 *Stat.*, 267.
[4] 18 *Stat.*, 90.

missible to waive the fee in any case. No decision was reached at the time; but the following year it was ruled by Secretary Olney, verbally and informally, that if the special passport contained no statement of the American citizenship of the person to whom it was issued no fee need be collected. Of course, such a course made the document hardly a passport at all, and the whole question was brought up on review before Secretary Sherman in 1897. The Solicitor, Walter E. Faison, submitted an able memorandum in which he said:

> The special passport is not, to my knowledge, granted to any official or individual who is not a citizen of the United States. . . . . It is clear to my mind that the special passport is nothing but an ordinary passport, in which the bearer's title of office and dignity are substituted for the ordinary description of a man. It differs in no essential particular from the passport referred to in the statutes. It is a citizen's passport, and I recommend the restoration to the form of the declaration that the bearer is a citizen of the United States.

Under date of May 1, 1897, the Secretary decided that the special passport should contain a statement of the American citizenship of the person to whom it was issued and that the same fee must be collected for it as for the ordinary passport.

As the holder of a special passport is supposed to enjoy more attention from foreign officials than the holder of an ordinary passport, there was a great deal of importunity on the part of travelers to obtain them as long as the Department was not strict in limiting them to public officials proceeding abroad on official

business. Personal acquaintances, not in the public service, of officers of the Department and officers of other Departments of inferior rank traveling for pleasure had only to ask in the proper quarter and receive special passports. Mr. Fish, during the eight years of his service as Secretary of State, issued only thirty-five special passports to private individuals, but Mr. Evarts, in four years, issued ninety-six, and Mr. Blaine, serving nine months, fifty. Mr. Frelinghuysen, serving three years, issued eighty-three; Mr. Bayard, in four years, one hundred and fifty-four; Mr. Blaine, in less than three years of his second incumbency, three hundred and ninety-four; Mr. Foster, in less than a year, twenty-nine; Mr. Gresham, in two years, one hundred and three; Mr. Olney, in less than two years, twenty-two. The rule adopted by Secretary Fish had been that no officer of the Army below the rank of Major should receive a special passport. This regulation had sunk into disuse and even military cadets received special passports; but in May, 1894, an informal communication to the Secretary of War caused him to cease asking for any special passports for Army officers, unless they were ordered abroad on public business. In 1897 the question was reopened by a letter of Lieutenant-Colonel Clous to the War Department, which was referred to the Secretary of State. The following reply was made:

* * * * * * *

On August 19, 1874, Mr. Fish, Secretary of State, in a letter to the Acting Secretary of the Treasury, laid down the following rule in respect to special passports: "It is the rule of the Department to issue special passports only to

prominent officials about to visit foreign countries on public business. In the military service of the Government they are given to officers not below the rank of Major in the Army and the relative rank in the navy." . . . .

During the last Administration an effort was made to check the too free issue of these documents, and to revert, in so far as possible to the original intention in regard to them. . . . .

The Department is now, however, in view of the representations made in Lieutenant-Colonel Clous's letter and your endorsement thereon, prepared to modify the informal notice of May, 1894, and will hereafter issue to officers of the Army special passports, depending upon your Department to ascertain before making requisition for such passports that they will be put to uses tending to increase the efficiency of the military service and will not be used for purposes of purely private and personal convenience. They will be issued only upon request of your Department, and never upon direct request of Army Officers.

The rule, then, had become in some sort definitely established. Officers of the government of high rank, civil or military, going abroad on public business were to receive special passports; but the War Department requested them for military officers of all ranks going abroad on personal errands as well as officially. Again the question came before the Secretary of State, and Mr. Root ordered that Mr. Fish's rule be reverted to, and that rule now maintains. Occasionally, however, the Secretary of State departs from it and furnishes a private citizen of great eminence with a special passport. The form of description is simply, "a distinguished citizen of the United States," or "one of the most distinguished citizens of the United States," or some similar phrase.

There is considerable variation in the number of citizen's passports issued. Each one is numbered, the number beginning with the administration of a new Secretary of State and ceasing with the termination of his office. Since June 28, 1810, they have been continuously recorded and the number issued by each Secretary is as follows:

Secretaries.	No. Passports.	Secretaries.	No. Passports.
Robert Smith	227	E. B. Washburne	118
James Monroe	872	Hamilton Fish	29,929
John Q. Adams	1,204	William M. Evarts	19,886
Henry Clay	1,118	James G. Blaine	3,931
Martin Van Buren	669	F. T. Frelinghuysen	14,238
Ed. Livingston	694	Thomas F. Bayard	40,218
Louis McLane	328	William F. Wharton	2,060
John Forsyth	3,353	John W. Foster	4,243
Daniel Webster	1,316	William F. Wharton	175
Hugh S. Legare	130	Walter Q. Gresham	25,013
A. P. Upshur	401	Edward F. Uhl	906
John Nelson	7	Richard Olney	20,400
John C. Calhoun	981	John Sherman	14,600
Jas. Buchanan	5,377	William R. Day	5,182
John M. Clayton	4,528	Alvey A. Adee	280
Daniel Webster	5,247	John Hay	108,404
Edward Everett	891	Francis B. Loomis	1,066
Wm. L. Marcy	12,429	Elihu Root	67,451
Lewis Cass	21,769	Robert Bacon	1,573
J. S. Black	721	P. C. Knox, March 5, 1909-July 7, 1911 (inclusive)	57,113
Wm. H. Seward	40,683		

It will be seen from this table that the largest number of passports issued by one Secretary was issued by John Hay. This part of the Department's business generally increases, but is subject to fluctuations produced by unusual conditions. If conditions in Europe are unduly disturbed, a greater proportion of Americans going abroad take out passports than

is the case when foreign conditions are peaceful. If a foreign country which does not ordinarily require people entering it to have passports adopts a rule requiring passports, the regulation necessarily affects the number of applications for passports. In years when the country is prosperous more people go abroad than in the years of depression.

The latest rules for issuance follow. Blank forms of application are provided by the Department, embodying all the facts which the rules require to be set forth:

RULES GOVERNING THE GRANTING AND ISSUING OF PASSPORTS IN THE UNITED STATES.

1. By Whom Issued and Refusal to Issue.—No one but the Secretary of State may grant and issue passports in the United States (Revised Statutes, Sections 4075, 4078) and he is empowered to refuse them in his discretion.

Passports are not issued by American diplomatic and consular officers abroad, except in cases of emergency; and a citizen who is abroad and desires to procure a passport must apply therefor through the nearest diplomatic or consular officer to the Secretary of State.

Applications for passports by persons in Porto Rico or the Philippines should be made to the Chief Executives of those Islands. The evidence required of such applicants is the same as that required of applicants in the United States.

2. Fee.—By Act of Congress approved March 23, 1888, a fee of one dollar is required to be collected for every citizen's passport. That amount in currency or postal money order should accompany each application made by a citizen of the United States. Orders should be made payable to the Disbursing Clerk of the Department of State. Drafts or checks will not be accepted.

3. APPLICATIONS.—A person who is entitled to receive a passport, if within the United States, must make a written application, in the form of an affidavit, to the Secretary of State. The application must be made by the person to whom the passport is to be issued and signed by him, as it is not competent for one person to apply for another.

The affidavit must be attested by an officer authorized to administer oaths, and if he has an official seal it must be affixed. If he has no seal, his official character must be authenticated by certificate of the proper legal officer.

If the applicant signs by mark, two attesting witnesses to his signature are required. The applicant is required to state the date and place of his birth, his occupation, the place of his permanent residence, and within what length of time he will return to the United States with the purpose of residing and performing the duties of citizenship.

The applicant must take the oath of allegiance to the Government of the United States.

The application must be accompanied by a description of the person applying, and should state the following particulars, viz: Age, ; stature, , feet inches (English measure); forehead, ; eyes, ; nose, ; mouth, ; chin, ; hair, ; complexion, ; face .

The application must be accompanied by a certificate from at least one credible witness that the applicant is the person he represents himself to be, and that the facts stated in the affidavit are true to the best of the witness' knowledge and belief.

4. NATIVE CITIZENS.—An application containing the information indicated by rule 3 will be sufficient evidence in the case of a native citizen; but

A person of the Chinese race, alleging birth in the United States, must obtain from the Commissioner of Immigration or Chinese Inspector in Charge at the port through which he proposes to leave the country a certificate upon his appli-

cation, under the seal of such officer, showing that there has been granted to him by the latter a return certificate in accordance with rule 16 of the Chinese Regulations of the Department of Labor. For this purpose special blank forms of application for passports are provided.

Passports issued by the Department of State or its diplomatic or consular representatives are intended for identification and protection in foreign countries, and not to facilitate entry into the United States, immigration being under the supervision of the Department of Labor.

5. A Person Born Abroad Whose Father was a Native Citizen of the United States.—In addition to the statements required by rule 3, his application must show that his father was born in the United States, resided therein, and was a citizen at the time of the applicant's birth. The Department may require that this affidavit be supported by that of one other citizen acquainted with the facts.

6. Naturalized Citizens.—In addition to the statements required by rule 3, a naturalized citizen must transmit his certificate of naturalization, or a duly certified copy of the court record thereof, with his application. It will be returned to him after inspection. He must state in his affidavit when and from what port he emigrated to this country, what ship he sailed on, where he has lived since his arrival in the United States, when and before what court he was naturalized, and that he is the identical person described in the certificate of naturalization. The signature to the application should conform in orthography to the applicant's name as written in his certificate of naturalization, or an explanation of the difference should be submitted.

7. Woman's Application.—If she is unmarried, in addition to the statements required by rule 3, she should state that she has never been married. If she is the wife or widow of a native citizen of the United States the fact should be made to appear in her application, which should be made according to the form prescribed for a native citizen whether

she was born in this country or abroad. If she is the wife or widow of a naturalized citizen, in addition to the statements required by rule 3, she must transmit for inspection her husband's certificate of naturalization or a certified copy of the court record thereof, must state that she is the wife (or widow) of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rules governing the application of a naturalized citizen.

(A married woman's citizenship follows that of her husband so far as her international status is concerned. It is essential, therefore, that a woman's marital relations be indicated in her application for a passport, and that in the case of a married woman her husband's citizenship be established.)

8. The Child of a Naturalized Citizen Claiming Citizenship Through the Naturalization of the Parent.—In addition to the statements required by rule 3, the applicant must state that he or she is the son or daughter, as the case may be, of the person described in the certificate of naturalization, which must be submitted for inspection, and must set forth the facts of emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

9. A Resident of an Insular Possession of the United States Who Owes Allegiance to the United States.—In addition to the statements required by rule 3, he must state that he owes allegiance to the United States and that he does not acknowledge allegiance to any other government; and must submit affidavits from at least two credible witnesses having good means of knowledge in substantiation of his statements of birth, residence and loyalty.

10. Expiration of Passport.—A passport expires two years from the date of its issuance. A new one will be issued upon a new application, and, if the applicant be a naturalized citizen, the old passport will be accepted in lieu of a certificate

of naturalization, if the application upon which it was issued is found to contain sufficient information as to the naturalization of the applicant. Passports are not renewed by the Department, but a person abroad holding a passport issued by the Department may have it renewed for a period of two years upon presenting it to a diplomatic or principal consular officer of the United States when it is about to expire.

11. Wife, Minor Children, and Servants.—When the applicant is accompanied by his wife, minor children, or servant who would be entitled to receive a passport, it will be sufficient to state the fact, giving the respective ages of the children and the allegiance of the servant, when one passport will suffice for all. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above-named conditions.

(The term servant does not include a governess, tutor, pupil, companion, or person holding like relations to the applicant for a passport.)

12. Titles.—Professional and other titles will not be inserted in passports.

13. Blank Forms of Application.—They will be furnished by the Department to persons who desire to apply for passports, but are not furnished, except as samples, to those who make a business of procuring passports.

14. Address.—Communications should be addressed to the Department of State, Bureau of Citizenship, and each communication should give the post-office address of the person to whom the answer is to be directed.

Section 4075 of the Revised Statutes of the United States, as amended by the Act of Congress approved June 14, 1902, provides that "the Secretary of State may grant and issue passports, and cause passports to be granted, issued and verified in foreign countries by such diplomatic or consular officers of the United States, and by such chief or other executive officer of the insular possessions of the United

States, and under such rules as the President shall designate and prescribe for and on behalf of the United States.'' The foregoing rules are accordingly prescribed for the granting and issuing of passports in the United States.

The Secretary of State is authorized to make regulations on the subject of issuing and granting passports additional to these rules and not inconsistent with them.

WOODROW WILSON

THE WHITE HOUSE,
March 10, 1913.

NOTE.—An applicant who expects to go to Russia accompanied by wife and children should inform the Department to that effect and state the names of the wife and children so that they may be inserted in the passport, to conform with the Russian regulations.

We pass now to a consideration of those passports which are intended for persons who are not citizens of the United States.

On June 6, 1906, the Committee on Foreign Affairs of the House of Representatives, through Hon. James Breck Perkins, reported:

It is the opinion of the committee that legislation is required to settle some of the embarrassing questions that arise in reference to citizenship, expatriation, and the protection of Americans abroad. . . . . We should be glad if the Secretary of State would select some of the gentlemen connected with the State Department who have given special attention to these subjects, have them prepare a report and propose legislation that could be considered by Congress at the next session. . . . . If a bill remedying such evils as may exist is submitted at the beginning of the next session it shall have the careful attention of this committee, and if its con-

tents are approved we will make every endeavor to have it promptly enacted into law.[1]

This proposal came in place of a favorable report on the joint resolution which had passed the Senate April 13, 1906, providing for the appointment of a commission of persons, not all in the Department, to examine into the subjects of citizenship, expatriation, and protection abroad and make recommendations for legislation if deemed advisable. Acting on the suggestion of the committee, Secretary Elihu Root appointed James Brown Scott, then the Solicitor of the Department, David Jayne Hill, then Minister of the United States to the Netherlands, and Gaillard Hunt, then Chief of the Passport Bureau, a board "to enquire into the laws and practice regarding citizenship of the United States, expatriation and protection abroad and report recommendations for legislation." Samuel B. Crandall, Ph.D., then a clerk in the Library of the Department, was detailed as Secretary of the Board. The result of the Board's labors was a report sent to the Speaker of the House of Representatives December 18, 1906, and printed by order of Congress,[2] a volume 538 pages in length, the contents being the Board's recommendations and discussion and appendices giving judicial decisions on citizenship, texts of laws, tables of cases and laws of foreign countries, the whole constituting the most comprehensive compilation on the subject of nationality ever published.

One of the recommendations of the Board was

[1] Rept. No. 4784, 59th Cong., 1st Sess.

[2] House Doc. No. 326, 59th Cong., 2d Sess.

That the protection of this government be accorded to those who have made the declaration of intention to become citizens of the United States and who go abroad for brief sojourn, but that such protection should not be effective in the country of their origin and should not extend to those who have resided in the United States for a less period than three years.

Following this recommendation the Act of March 2, 1907, was passed, providing that qualified passports might be issued to persons who have made the declaration of intention to become citizens of the United States under such rules as the Secretary of State might prescribe.

The rules adopted by the Secretary of State are:

RULES GOVERNING THE GRANTING AND ISSUING OF PASSPORTS TO THOSE WHO HAVE DECLARED THEIR INTENTION TO BECOME CITIZENS OF THE UNITED STATES.

1. The first section of the act approved March 2, 1907, "in reference to the expatriation of citizens and their protection abroad," provides "That the Secretary of State shall be authorized, in his discretion, to issue passports to persons not citizens of the United States as follows: Where any person has made a declaration of intention to become such a citizen as provided by law and has resided in the United States for three years, a passport may be issued to him entitling him to the protection of the Government in any foreign country: *Provided*, That such passport shall not be valid for more than six months and shall not be renewed, and that such passport shall not entitle the holder to the protection of this Government in the country of which he was a citizen prior to making such declaration of intention."

2. This section is not intended to confer upon persons who have only declared their intention to become citizens a general right to receive passports upon application. Such

passports will be issued only when it is affirmatively shown to the Secretary of State that some special exigency requires the temporary absence of the applicant from the United States, and that without such absence the applicant would be subjected to special hardship or injury.

3. Such passports will not be issued to those who have made the declaration of intention and who have failed, through their own neglect, to complete their intention and secure naturalization as citizens of the United States; nor to those who may make the declaration of intention in order to secure passports and leave the United States, *nor shall more than one such passport be issued to any applicant.*

4. It is therefore ordered that before a passport shall be issued to anyone who has made the declaration of intention to become a citizen of the United States *the following facts shall be established to the satisfaction of the Secretary of State:*

(*a*) That the applicant has resided in the United States for at least three years, as provided by law.

(*b*) That he is not yet eligible under the law for making application for final naturalization.

(*c*) *That at least six months have elapsed since the applicant's declaration of intention.*

(*d*) *That the applicant has not previously applied for and obtained a similar passport from this Department.*

(*e*) That a special and imperative exigency exists requiring the absence of the applicant from the United States. The burden of proof will, in each case, be upon the applicant to show to the satisfaction of the Secretary of State that there is a necessity for his absence.

(*f*) That the applicant has not applied for or obtained a passport from any other government since he declared his intention to become a citizen of the United States.

5. Applications must be made in the form of an affidavit to the Secretary of State. Blank forms of application are not furnished by the Department.

6. The affidavit must be attested by an officer authorized to administer oaths, and if he has an official seal it must be affixed. If he has no seal his official character must be authenticated by certificate of the proper legal officer.

7. If the applicant signs by mark two attesting witnesses to his signature are required.

8. The applicant is required to state the date and place of his birth, the date of his emigration to this country, his occupation and the place of his permanent residence, the name of the court before which he declared his intention to become a citizen of the United States and the date of the declaration, where he intends to travel, how long he expects to remain in each foreign country, for what purpose he is proceeding abroad, the circumstances which make his absence necessary, that he intends to return to the United States, and the probable duration of his absence therefrom. No fee is prescribed by law for the issuance of a declarant's passport.

9. *If any previous application for a similar passport has been denied by the Department, this fact must be stated by the applicant.*

The application must be accompanied by a description of the person applying and should state the following particulars, namely: Age, ; stature, feet inches (English measure); forehead, ; eyes, ; nose, ; mouth, ; chin, ; hair, ; complexion, ; face, .

The application must be accompanied by the certificate of the applicant's declaration of intention and two supporting affidavits from citizens of the United States who shall state that the applicant is the person he represents himself to be, how long they have known him, and that the facts stated in his affidavit are true to the best of their knowledge and belief.

A passport may be granted to a declarant under the statutory provision quoted above for purposes of identification and protection in foreign countries, other than his country of origin, but not for the purpose of facilitating

re-entry into this country. All matters relating to immigration being under the supervision of the Department of Labor, any inquiries concerning the right to re-enter the United States should be addressed to that Department.

W. J. BRYAN.

DEPARTMENT OF STATE,
Washington, November 14, 1913.

The form of the passport is:

[SEAL]

No.....

UNITED STATES OF AMERICA,

DEPARTMENT OF STATE,

To all to whom these presents shall come, Greeting:

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern to permit

.....

a native of.....

who has resided in the United States for three years, and has declared his intention to become a citizen of the United States, as provided by law, safely and freely to pass, and in case of need to give ..... all lawful aid and protection.

This passport is not valid in ..... It expires ..... 19 , and is not subject to renewal.

Given under my hand and the Seal of the Department of State, at the City of Washington, the ....day of ..... 190 , and of the Independence of the United States the one hundred and.....

Description,

Age ..... Years .....
Stature ... Ft. ... In. ... Eng.
Forehead .....
Eyes .....
Nose .....
Mouth .....
Chin .....
Hair .....
Complexion .....
Face .....

Signature of the Bearer:

.....

There had been a few instances of the issuing of passports to those who had made the declaration of intention before this law was passed. One is found dated March 15, 1825, issued by Henry Clay; but it was irregular. The rule was correctly stated by Secretary William L. Marcy, in an instruction of January 10, 1854, to the American *Chargé* at Vienna:

> It is true he left this country with a passport issued from this Department; but as he was neither a native born nor naturalized citizen he was not entitled to it. It is only to citizens that passports are issued.[1]

During the Civil War, however, there was a brief period when declarants were entitled to receive passports. The Act of March 3, 1863, "for enrolling and calling out the national forces" included as liable to military duty "all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof."[2] The government having called upon those who had taken the first steps to become American citizens to protect it, acknowledged the reciprocal obligation to protect them by enacting on the same date that the law prohibiting the issuance of passports to those not citizens of the United States should not apply to persons liable to military duty.[3] The act was repealed May 30, 1866.[4] Only a few passports were issued

[1] Lawrence, *Wheaton*, Ed. 1863, p. 929.
[2] 12 *Stat.*, 731.
[3] 12 *Stat.*, 754.
[4] 14 *Stat.*, 54.

under it. The form used was the same as that of the regular passport, except that the blank space for the name had these words added, "who is lawfully liable to military duty in this country and who has declared his intention to become a citizen of the United States."

The result of the war with Spain brought a new feature into the subject of protection of Americans abroad by erecting a new class of persons not citizens of the United States and yet clearly entitled to receive the protection of this government, because, as a result of the annexation of territory, they owed it allegiance and were not citizens of any other country. As long as the question of their citizenship was pending before the federal courts, the Department did not issue passports to them, as to do so would have been tantamount to an expression of opinion on the Department's part that they were citizens of the United States. It did, however, extend its protection to certain residents of the insular possessions who applied for it. The Supreme Court having decided that they were not citizens of the United States, the Department asked Congress for an amendment to the passport laws which would permit passports to be issued to them and also permit the chief executives of the insular possessions to issue passports under the same regulations as apply to their issuance by diplomatic and consular officers, and the Act of June 14, 1902, gave such authority. The form of passport is as follows:

Good only for
two years from date.

[ARMS]

UNITED STATES OF AMERICA,
ISLAND OF PORTO RICO,

To all to whom these presents shall come, Greeting:

I, the undersigned, Governor of Porto Rico, hereby request all whom it may concern to permit *Conrado Palau y Diaz* a Citizen of Porto Rico, owing allegiance to the United States, *with his wife and children* safely and freely to pass, and in case of need to give *them* all lawful Aid and Protection.

Description,
Age, *43* years.
Stature, *5* Feet, *8¼* Inches Eng.
Forehead, *high.*
Eyes, *brown.*
Nose, *regular.*
Mouth, *regular.*
Chin, *round.*
Hair, *black.*
Complexion, *light.*
Face, *regular.*

[SEAL]

Given under my hand and the Seal of Porto Rico, at the City of San Juan, the *18th* day of *May* in the year 190*8*, and of the Independence of the United States the one hundred and *thirty-second.*

W. F. Willoughby.

Signature of the Bearer,
C. Palau.
By the *Acting* Governor,
D. A. Skinner,
Acting Secretary of Porto Rico.
No. *280.*

This passport is issued under the following rules:

RULES GOVERNING THE GRANTING AND ISSUING OF PASSPORTS IN THE INSULAR POSSESSIONS OF THE UNITED STATES.

Section 4075 of the Revised Statutes of the United States, as amended by the act of Congress, approved June 14, 1902, providing that "the Secretary of State may grant and issue passports, and cause passports to be granted, issued and

verified in foreign countries by such diplomatic or consular officers of the United States, and by such chief or other executive officer of the insular possessions of the United States, and under such rules as the President shall designate and prescribe for and on behalf of the United States'', the following rules are hereby prescribed for the granting and issuing of passports in the insular possessions of the United States:

1. By Whom Issued.—Application for a passport by a person in one of the insular possessions of the United States should be made to the Chief Executive of such possession.

A person who is entitled to receive a passport if temporarily abroad should apply to the diplomatic representative of the United States in the country where he happens to be; or, in the absence of a diplomatic representative, to the consul-general of the United States; or, in the absence of both, to the consul of the United States. The necessary statements may be made before the nearest consular officer of the United States.

2. To Whom Issued.—The law forbids the granting of a passport to any person who does not owe allegiance to the United States.

A person who has only made the declaration of intention to become a citizen of the United States can not receive a passport.

3. Applications.—A person who is entitled to receive a passport must make a written application in the form of an affidavit.

The affidavit must be attested by an officer authorized to administer oaths, and if he has an official seal it must be affixed. If he has no seal, his official character must be authenticated by certificate of the proper legal officer.

If the applicant signs by mark, two attesting witnesses to his signature are required.

The applicant is required to state the date and place of his birth, his occupation, and the place of his permanent

residence, and to declare that he goes abroad for temporary sojourn and intends to return to the United States or one of the insular possessions of the United States with the purpose of residing and performing the duties of citizenship therein.

The applicant must take the oath of allegiance to the Government of the United States.

The application must be accompanied by a description of the person applying, and should state the following particulars, viz: Age, ; stature, feet inches (English measure); forehead, ; eyes, ; nose, ; mouth ; chin, ; hair, ; complexion, ; face, .

The application must be accompanied by a certificate from at least one credible witness that the applicant is the person he represents himself to be, and that the facts stated in the affidavit are true to the best of the witness's knowledge and belief.

4. Native Citizens of the United States.—An application containing the information indicated by rule 3 will be sufficient evidence in the case of native citizens of the United States.

5. A Person Born Abroad Whose Father was a Native Citizen of the United States.—In addition to the statements required by rule 3, his application must show that his father was born in the United States, resided therein, and was a citizen at the time of the applicant's birth. The Department may require that this affidavit be supported by that of one other citizen acquainted with the facts.

6. Naturalized Citizens.—In addition to the statements required by rule 3, a naturalized citizen must transmit his certificate of naturalization, or a duly certified copy of the court record thereof, with his application. It will be returned to him after inspection. He must state in his affidavit when and from what port he emigrated to this country, what ship he sailed in, where he has lived since his arrival in the United States, when and before what court he was naturalized, and

that he is the identical person described in the certificate of naturalization. The signature to the application should conform in orthography to the applicant's name as written in his certificate of naturalization.

7. Woman's Application.—If she is unmarried, in addition to the statements required by rule 3, she should state that she has never been married. If she is the wife of a native citizen of the United States the fact should be made to appear in her application. If she is the wife or widow of a naturalized citizen, in addition to the statements required by rule 3, she must transmit for inspection her husband's certificate of naturalization, must state that she is the wife (or widow) of the person described therein, and must set forth the facts of his emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

8. The Child of a Naturalized Citizen Claiming Citizenship Through the Naturalization of the Parent.—In addition to the statements required by rule 3, the applicant must state that he or she is the son or daughter, as the case may be, of the person described in the certificate of naturalization, which must be submitted for inspection, and must set forth the facts of emigration, naturalization, and residence, as required in the rule governing the application of a naturalized citizen.

9. A Resident of an Insular Possession of the United States Who Owes Allegiance to the United States.—In addition to the statements required by rule 3, he must state that he owes allegiance to the United States and that he does not acknowledge allegiance to any other government; and must submit an affidavit from at least two credible witnesses having good means of knowledge in substantiation of his statements of birth, residence, and loyalty.

10. Expiration of Passport.—A passport expires two years from the date of its issuance. A new one will be issued upon a new application, and, if the applicant be a naturalized

citizen, the old passport will be accepted in lieu of a certificate of naturalization, if the application upon which it was issued is found to contain sufficient information as to the naturalization of the applicant.

11. WIFE, MINOR CHILDREN, AND SERVANTS.—When the applicant is accompanied by his wife, minor children, or servant who would be entitled to receive a passport, it will be sufficient to state the fact, giving the respective ages of the children and the allegiance of the servant, when one passport will suffice for all. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servant under the above named conditions.

12. PROFESSIONAL TITLES.—They will not be inserted in passports.

13. REJECTION OF APPLICATION.—The Chief Executive Officers of the insular possessions of the United States are authorized to refuse to issue a passport to anyone who there is reason to believe desires it for an unlawful or improper purpose, or who is unable or unwilling to comply with the rules.

THEODORE ROOSEVELT.

OYSTER BAY, NEW YORK, *July 19, 1902.*

The passport issued by the Department to foreigners traveling in the United States is in a class by itself. It is the safe-conduct, formerly issued frequently, and is the document usually described in works on international law as a passport. So far as this country is concerned, it is useless in time of peace and is rarely issued. One issued by John Quincy Adams, October 23, 1824, to the Argentine Minister, who was about to go home on leave, was worded:

Whereas General Charles d'Albeer, Minister Plenipotentiary from the Republic of Buenos Ayres to the United

States, has made known to this Government, that he is soon to return to Buenos Ayres upon a leave of absence, These are therefore to request all Persons, Citizens of the United States, especially officers Naval or Military, of the same to permit him safely and freely to pass, etc.

The form now used is:

Know ye, that the bearer hereof [full name and title] is about to travel abroad.

These are therefore to request all officers of the United States, or of any state thereof to permit him to pass freely, without let or molestation, and to extend to him all friendly aid and protection in case of need.

Foreign ministers in the United States used to apply for these passports occasionally; now they do so very seldom, the Department issuing hardly more than one in a year. This is the form of passport which is given by the government to a foreign minister when it refuses to recognize him any longer—when he is "given his passports," as the phrase is. It is the form which would be given a foreign minister if he should break off his friendly residence near this government and "demand his passports," as the phrase is.

Useless in time of peace, safe-conducts have been invoked in time of war as necessary. They were not used extensively during wars previous to the Civil War, but during that conflict they were used frequently. They were addressed

To all to whom these presents shall come, Greeting:

And in particular the Military and Civil Authorities of the United States.

Passports from foreigners entering the United States have never been required under our law except in time of war. The practice is irregular and governed by the exigencies. On August 19, 1861, an order was issued by Secretary Seward that "no one be allowed to go abroad from a port of the United States without a passport nor to land without one." The safe-conducts and passports issued by the Secretary were recorded in the usual way; but many safe-conducts were issued by the military authorities.

As all regular passports issued in the United States are signed with the Secretary of State's name, the physical labor of signing has presented a serious problem, which has been avoided in most cases by the use of a rubber or metal stamp made in facsimile of the Secretary's signature. When Secretary Root assumed charge of the Department he ordered the discontinuance of the use of the stamp. A memorandum of October 25, 1905, from the Passport Bureau said:

> Passports are more valuable if signed by the pen than if signed by the stamp. We received information in 1899 from our (then) Legation at Vienna that the Austro-Hungarian Government often required statements from our diplomatic and consular agents to show that our passports were the documents they purported to be, and in South American countries the authorities frequently require authentication of the signature of the Secretary on the passports. The practice heretofore has not been uniform in respect to the use of the stamped signature on passports. Thus, Mr. Fish signed his name; Mr. Evarts used the stamp; so did Mr. Blaine and Mr. Frelinghuysen, but Mr. Bayard used the pen; Mr. Blaine

again used the stamp; so did Mr. Foster, Mr. Gresham, Mr. Olney, Mr. Sherman, Mr. Day and Mr. Hay. The Question was brought before Mr. Hay, but he refused to change the existing practice. If the Secretary signs the passports he will have to sign about 16,000 a year, and, in the spring of the year, from 90 to 150 a day.

The difficulty was finally solved by having the facsimile of the Secretary's signature engraved on the passport plate.

With reference to authority for issuing passports, Secretary Root prescribed the method of issuance:

DEPARTMENT OF STATE,

WASHINGTON, *January* 3, 1906.

The following rule is established for the issue of passports:

Upon the coming in of applications for passports the Chief of the Passport Bureau will, as heretofore, examine the evidence in support of each application. He will certify each day to the Secretary of State a list of the applicants whose citizenship and right to receive passports he finds to be established by such evidence.

The approval of the Secretary or Acting Secretary upon such list will be authority to the Chief of the Passport Bureau to affix the seal of the Department to, and to issue, in behalf of the Secretary of State, passports to the applicants so certified and approved.

The Chief of the Passport Bureau may, if occasion requires, certify such lists to the Secretary more frequently than once a day.

ELIHU ROOT.

The Act of March 2, 1907, "in reference to the expatriation of citizens and their protection abroad" provided in the seventh section "That duplicates of

any evidence, registration, or other acts required by this Act shall be filed with the Department of State for record." The administration of the law is a part of the duties of the Bureau of Citizenship. It prepares the forms of registration required of American citizens residing abroad, receives the duplicates, which become a part of its files, and conducts the correspondence.

CHAPTER XV

AUTHENTICATIONS. INTRODUCTIONS

THE same difficulty with reference to the signature on passports was presented in the question of signing authentications under the Department's seal. The memorandum of the Chief of the Passport Bureau, October 25, 1905, said:

As for the certificates of authentication, these were formerly signed with the pen and much delay and inconvenience in the transaction of public business resulted, for the requests for authentication come in at all hours of the day and often should be signed at once. After the use of the stamp began here, the Attorney General continued to sign with the pen, and lawyers doing business with us frequently commented upon the greater facility encountered here. The Attorney General, accordingly, abolished the use of the pen, and his signature is now affixed by a stamp as our Secretary's is. No instance has come to our attention of the refusal of a court or other public authorities to accept the authentications signed by the stamp. I do not believe anything would be gained by changing the practice in respect to authentications. Owing to the character of the papers and the irregularity with which they are presented to us for authentication, I am convinced that the Secretary would be put to incessant vexation if he were obliged to sign these documents.

"Nevertheless the use of stamps is to be discontinued. E. R." was the endorsement made by

Secretary Root on this memorandum. A way out of the difficulty was found by the Secretary designating the duty of signing the authentications to the Chief Clerk.

[1905]

It is hereby ordered that certificates which have heretofore been authenticated under the signature of the Secretary of State and the seal of the Department of State, shall hereafter be authenticated under the seal of the Department by the Chief Clerk, acting for the Secretary. The form of authentication shall be as follows:

"In testimony whereof I, Elihu Root, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name to be subscribed by the Chief Clerk of the said Department, at the city of Washington, this day of , 190 .

....., Secretary of State.
by....., Chief Clerk."

ELIHU ROOT,
Secretary of State.

By order of February 23, 1909, this was modified by Secretary Robert Bacon so that the authentication is under the name of the Chief of the Bureau of Citizenship instead of the Chief Clerk, but later the former practice was reverted to.

ORDER BY THE SECRETARY OF STATE.

[No. 36]

It is hereby ordered that certificates which have heretofore been authenticated under the signature of the Secretary of State and the seal of the Department of State, shall on and after August 7, 1911, be authenticated under the seal of the

Department by the Chief Clerk, acting for the Secretary. The form of authentication shall be as follows:

"In testimony whereof, I, P. C. Knox, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Chief Clerk of the said Department, at the city of Washington, this day of , 191 .

P. C. KNOX,
Secretary of State.
by WM. MCNEIR,
Chief Clerk."
P C KNOX

DEPARTMENT OF STATE,
Washington, July 28, 1911.

The sixth section of the act creating the Department provided:

That there shall be paid to the Secretary, for the use of the United States, the following fees of office, by the persons requiring the services to be performed, except when they are performed for any officer of the United States, in a matter relating to the duties of his office, to wit; for making out and authenticating copies of records, ten cents for each sheet containing one hundred words; for authenticating a copy of a record or paper, under seal of office, twenty-five cents.

The amount received for affixing the seal was never large. A memorandum shows that it was: for 1850, $102.25; for 1851, $95; for 1852, $154.50; for 1853, $33.50.[1] By Act of April 23, 1856,[2] it was abolished.

In order that it may have actual knowledge of the seals which it certifies to, the Department has impres-

[1] Register of certificates, Bur. of Citizenship.
[2] 11 *Stat.*, 5.

sions of them. To name them is to give the list of the seals which the Department has authority to certify to:

The seals of all the Executive Departments, of the Library of Congress (Copyright office, the Library itself having no seal), the Smithsonian Institution, the States and Territories, Porto Rico, the Philippines. On one occasion, at least, it certified to the seal of the Senate. This was in 1896 when John Hays Hammond, an American citizen, being condemned to death for participating in an attempt to overthrow the government of the (then) Transvaal Republic, the desire for his pardon, which was universal in the United States, and which under the circumstances could receive no official sanction, found expression in a petition to the Transvaal Government signed by all the members of the United States Senate each acting in a private character. To the petition was affixed a certificate under the seal of the Senate that the signers were Senators. Upon request, and in view of the fact that there was no other authority which a foreign government would recognize, the State Department certified to the genuineness of the seal of the Senate. The incident was not based on precedent, nor would it, probably, be deemed a precedent. On April 17, 1873, the Assistant Secretary of State wrote to the Librarian of Congress:

> This Department cannot certify that Mr. Howe is Chairman of the Joint Committee on the Library of Congress. If you can verify the contract to the satisfaction of the respective parties before Chief Justice Cartter or one of the

Associate Justices of the Supreme Court of the District of Columbia, this Department will attach an additional certificate to that of the Justice, in authentication of his official acts.[1]

When this letter was written the federal judges received their commissions under the seal of the Department of State. The theory is that the Department can certify only to such seals, acts, or officers as it has official cognizance of.

The form of authentication used to be:

I certify that the document hereunto annexed is under the seal of the and is entitled to full faith and credit.

Sometimes unscrupulous persons, obtaining the Department's authentication of a state seal which had been affixed to a certificate of incorporation, would use it as a bait to unwary investors, representing that the government vouched for the credit of the corporation. The Department would, of course, refuse an authentication which was designed for such a use; but it has no means of knowing the purpose for which it is desired. A flagrant case of attempted imposition upon the public occurred in 1906, and the Second Assistant Secretary, Mr. Adee, raised the question whether it might not be well to change the wording of the certificate. In a memorandum dated August 6, 1906, he said:

The words "full faith and credit" in the Department's certification might be construed by an ignorant speculative investor as a guarantee of credit and standing. Would it not suffice to merely certify to the seal?

[1] Vol. IV, Passport press copy book, p. 58.

It was true that the state seal never certified to the deed or articles of incorporation, but simply to the deposit or recording of the document; but it was deemed important to do whatever was possible to prevent deception. The Solicitor, Mr. Scott, in his memorandum of August 15 and September 1, 1906, prescribed this form, which is now in use:

UNITED STATES OF AMERICA,

[ARMS]

DEPARTMENT OF STATE,

To all to whom these presents shall come, Greeting:

I CERTIFY That the document hereunto annexed is under the Seal of the , and that such Seal is entitled to full faith and credit.

At the bottom appear these words:

For the contents of the annexed document the Department assumes no responsibility.

This form applies to authentications of seals. When the Department certifies to copies from the files or records it uses the following form:

I certify that the document hereto annexed is a true copy from the [files or records] of this Department.

When it certifies to a law it uses this form:

I certify that hereunto annexed is a true copy of an Act of Congress, approved , the original of which is on file in this Department, entitled "An Act ."

It certifies to a foreign diplomatic officer in this form:

I certify that [name of officer] whose name is subscribed to the paper hereto annexed, is duly accredited to this Government as [title].

For an American diplomatic or consular officer the form is:

I CERTIFY That whose name is subscribed to the paper hereto annexed, was at the time of subscribing the same [office held] of the United States at [place or country] duly commissioned; and that full faith and confidence are due to his acts as such.*

IN TESTIMONY WHEREOF, I Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name to be subscribed by the Chief of the Bureau of Citizenship of the said Department, at the City of Washington, this day of , 191

.....

Secretary of State.

By.....

Chief, Bureau of Citizenship.

* For the contents of the Annexed Document the Department assumes no responsibility.

The rules for authentications were first formulated and adopted October 10, 1906. The rules now in force follow:

AUTHENTICATIONS.

The Department of State does not affix its certificate of authentication to documents under the seals of courts,

notaries public, commissioners of deeds, justices of the peace, inferior State or Territorial officers, bureaus of other Federal Executive Departments, colleges, corporations, etc.

The enclosed document should, therefore, bear the seal of the before it is returned for authentication by this Department.

FEE.

Under the law (act of April 23, 1856) no fee is charged for a certificate of authentication issued by this Department.

NATURE OF DOCUMENT.

In mailing a document to this Department with a request for its authentication, the letter of transmittal should always state the nature of the document, as power of attorney, certificate of birth, death, or marriage, testament or will, etc.

CERTIFICATE FROM A REPRESENTATIVE OF A FOREIGN GOVERNMENT.

It is not within the province of this Department to procure from a representative of a foreign government a certificate of authentication, and application should be made direct to the proper foreign representative.

ADDRESS.

All communications relating to authentication should be addressed to the Department of State, Bureau of Citizenship, Washington, D. C.

DEPARTMENT OF STATE, *March 7, 1912.*

The Bureau of Citizenship which issues passports and authentications also prepares letters of introduction to the diplomatic and consular officers for Ameri-

can citizens who are especially recommended to the Secretary of State. The general rule is that they are issued only upon recommendation of public officers; but the Secretary of State issues them directly according to his pleasure. The form used varies, but is usually as follows:

To the Diplomatic and Consular Officers of the United States.

Gentlemen:

At the instance of the honorable a Representative of the Congress of the United States from the state of , I take pleasure in introducing to you of who is about to proceed abroad. I cordially bespeak for Mr. such courtesies as you may be able to extend to him consistently with your official duties.

[Signed by the head of the Department.]

It was found that these letters were mistaken by some travelers as serving the purpose of passports, and they were sometimes obtained by people who were not entitled to receive passports. To remedy this evil, a notice was prepared in 1901 and since then has accompanied all introductory letters:

The enclosed letter of introduction to the Diplomatic and Consular Officers of the United States has no uses authorized by law or custom among the officials of foreign governments, and does not take the place or serve the purpose of the official passport issued by this Government.

DEPARTMENT OF STATE,
Washington, March 27, 1901.

The Department has always regarded the letters as an evil and has sought on several occasions to abolish them.

On January 12, 1855, Secretary Marcy said they had "long been discontinued," because diplomatic and consular officers complained that they caused inconvenience and trouble,[1] but they were resumed thereafter. In 1880 the Department printed the following form letter:

DEPARTMENT OF STATE,

WASHINGTON, 18

Sir:

I have the honor to reply to your request of the for an introductory letter for and to inform you that the practice of the Department for many years has restricted the issuance of such letters to those departing from this country in connection with official business, or who occupy positions of high public responsibility.

This rule has in recent years been temporarily relaxed in favor of private citizens, but the experience so gained has convinced the Department that the former custom is well founded and should be resumed.

The passport for travel issued by the Department is fully sufficient to introduce the bearer to any officer whom he may wish to meet, and to secure from him the kindly civilities naturally due to countrymen in a strange land.

An additional letter, however, from the Secretary, is too often regarded as suggesting special courtesies from our officers which must involve an expenditure of time and money not contemplated by the laws fixing the duties and salaries of the Consular service.

I do not, therefore, feel at liberty to supply you with other

[1] Quoted in Moore's *Digest*, IV, 785.

papers than the enclosed blank applications and directions, which may be of service to you should a passport be desired.

I have the honor to be, Sir,

Your obedient servant,

This was followed by a circular instruction to our officers abroad:

DEPARTMENT OF STATE,
WASHINGTON, *April* 25, 1881.

To the Diplomatic and Consular Officers of the United States.

Gentlemen:

Letters of introduction in favor of American citizens traveling abroad will hereafter only be issued to officers of the government, or in cases where some special reason may make it the interest of the Department to commend some one to your consideration for a particular purpose. The practice of granting general introductory letters to facilitate travel will be discontinued.

With regard to outstanding letters of introduction, I have to observe that personal commendation to your courteous attentions is not to be construed as importing any claims to the hospitalities of the representatives of the United States abroad, or as requiring more than the kindly civilities which are naturally due to countrymen in a strange land, and which it is presumed they uniformly receive at your hands. For such purpose, a passport, or evidence of citizenship and identity is thought to be sufficient. Under no circumstances is it intended that the recommendation of the Department should entail any charge on you, or constrain you to render personal service to a visitor to the detriment of the business of your office.

I am, gentlemen,

Your obedient servant,

Nevertheless the free issuance of the letters was soon resumed and has continued since.

Because of improper use of the letters in commercial enterprises, the following instruction was sent:

LETTERS OF INTRODUCTION.

DEPARTMENT OF STATE,

Washington, February 14, 1910.

To the Diplomatic and Consular Officers of the United States.

Gentlemen:

In the course of its routine business the Department not infrequently issues, at the instance of members of Congress or other gentlemen well known to it, letters introducing to the diplomatic and consular officers persons going abroad in the interest of private American enterprises. These letters are general in character and call for no service by the diplomatic and consular officers other than they are required under standing instructions to give to all American citizens whether possessed of one of these letters or not.

It is not intended by such letters to give the Department's specific endorsement to the enterprises in the furtherance of which the bearers go abroad, or that diplomatic and consular officers should regard themselves as instructed to give active support to the projects.

This is especially true when rival American interests may clash in the same channels. It is the expectation of the Department that all reputable American promoters should have equal opportunity to advance their respective interests, and that no one shall be accorded by its diplomatic and consular representatives preference over American competition.

Diplomatic and consular officers will understand, and will act accordingly, that when it is the desire of the Department

that they should aid officially or personally in the promotion of any particular undertaking on the part of the citizens of the United States, separate instructions specifically authorizing and directing them to do so will be issued by the Department.

Should circumstances so suggest, the instructions of the Department may be sought.

I am, Gentlemen,
Your obedient servant,
P C Knox

CHAPTER XVI

TREATIES. EXTRADITION. CLASSIFICATION OF CORRESPONDENCE. DISTRIBUTION OF DUTIES

THE most important diplomatic function of the Department is that of making treaties—those agreements with foreign Powers which regulate our international relations and are, under the Constitution, "the supreme law of the land." Rules for negotiating them are an important section in works on international law, and will not be repeated here, except as they are a part of the executive duties of the Department.

Indian treaties, it should be remarked, of which formerly many were made, were never negotiated by the Secretary of State, but by special commissioners acting for the President under the War Department, which had control of Indian affairs until the Department of the Interior took over the business. They were filed with the Department of State, however, as the other laws are. There have been no Indian treaties made since the Act of March 3, 1871, which forbade further recognition of Indian tribes or nations as independent Powers.

Postal conventions with foreign governments were negotiated by the Secretary of State, until the Act of June 8, 1872, required that they be made by the

Postmaster-General and become binding when signed by him and approved by the President, the power of the Senate to advise the ratification of treaties being delegated in this case. All other treaties are made by the Secretary of State. Often he conducts the negotiations in person; himself has the interviews with the foreign envoy, drafts his own notes, and the treaty itself. He may have the assistance of any officer he chooses—of one of the Assistant Secretaries, the Solicitor, a Bureau Chief, or several persons. Or the treaty may be negotiated by some officer of the Department for the Secretary. The methods vary greatly, and the record of the negotiation is voluminous and minute in some cases and meager in others. It is usual, however, when an important verbal communication has been made to the Secretary in the course of negotiating a treaty, to draw up a memorandum of its substance to go upon the record, and often the memorandum is submitted to the foreign envoy, so that there shall be no misunderstanding. The foreign envoy may leave a written statement of what he has said with the Secretary.[1]

The business of negotiating a series of treaties was delegated to a special representative, in 1897, when John A. Kasson was appointed Special Commissioner Plenipotentiary under the Tariff Act of July 24, 1897, to negotiate reciprocal trade agreements with foreign governments. He conducted the interviews, prepared

[1] See on the details of treaty-making François S. Jones's article, "Treaties and Treaty-making," in the *Political Science Quarterly*, September, 1897.

the correspondence, which was, however, signed by the Secretary, and signed all the treaties except one, being given "full powers" by the President for the purpose.

Whoever signs a treaty must receive "full powers" from the President. This is a formal document authorizing an individual or individuals to negotiate with the foreign representative for the express purpose of making a treaty for a certain purpose and to sign the treaty. The foreign representative is expected to exhibit a similar document from the head of his state before he signs a treaty. When the final drafts of the treaty have been agreed to by both sides, the treaty is engrossed for final signature, and it is signed in the Secretary of State's office or in the Diplomatic Reception Room. The Chief of the Diplomatic Bureau is present with the papers, the Secretary's seal, unless he uses his signet ring, and the wax. He, or an Assistant Secretary, holding the American copy of the treaty, compares it with the foreign copy held by the foreign minister or his Secretary of Legation. The two copies being found to be in agreement, both are signed by the Secretary of State and the foreign representative. On the copy intended for the United States the Secretary of State's signature precedes that of the foreign envoy; in that intended for the foreign government the foreign envoy's signature precedes that of the Secretary of State. The seal of each principal is impressed in wax opposite his name. If the treaty is not with an English-speaking country, it is written in parallel

columns, English on one side, the foreign language on the other. The American copy, having been signed, is transmitted to the Senate for advice as to ratification, with a message from the President. Usually, but not always, the message contains no comment or argument.

Following is an example of the ordinary form:

WASHINGTON, December 6, 1831.

To the Senate of the United States:

I transmit to the Senate, for their advice with regard to its ratification, a treaty between the United States and France, signed at Paris by the Plenipotentiaries of the two Governments on the 4th of July, 1831.

With the treaty are also transmitted the dispatch which accompanied it, and two others on the same subject received since.

ANDREW JACKSON.

Following is another example:

WASHINGTON, February 15, 1893.

To the Senate:

I transmit with a view to its ratification, a treaty of annexation, concluded on the 14th day of February, 1893, between John W. Foster, Secretary of State, and Lorin A. Thurston, W. R. Castle, W. C. Wilder, C. L. Carter, and Joseph Marsden, the Commissioners on the part of the Government of the Hawaiian Islands. The provisional treaty, it will be observed, does not attempt to deal in detail with the questions, &c., &c. [Explaining conditions in the islands and the objects of the treaty.]

When the ratification of a treaty has been disapproved of by the Senate it is returned to the Depart-

ment with a statement of the fact from the Senate, and is filed in the Bureau of Rolls and Library.

The Senate agreeing that the treaty ought to be ratified, an attestation of the agreement and of any amendments it may have proposed is attached to the treaty, and it is sent back to the President, who sends it to the Department. It is then signed by the President, this being the ratification, countersigned by the Secretary of State, and the great seal affixed, a special warrant for the purpose having been made.

The ratifications are exchanged at the State Department at an appointed time with the foreign representative. He hands the ratified foreign copy to the Secretary of State, who hands him the ratified American copy. Each exhibits "full powers" to exchange the ratifications. A protocol or minute of the date and facts of exchange is made. The final completed treaty thus exchanged is engrossed on heavy ledger paper; but in the earlier days was upon parchment or vellum. It is in a rich velvet or leather portfolio which is placed in a handsome wooden box. Until about thirty years ago the great seal was appendant, ornamental silk cords passing through the wax which was protected by a round gold box; but since then the seal has been impressed upon the paper itself over a wafer. The appendant seal is still used by European countries, but most American states use the impressed seal.

The form of ratification is:

To all to whom these Presents shall come, Greeting:

Know ye, that whereas a convention between the United States of America and extending for a period

of years from concerning was concluded and signed by the respective plenipotentiaries at Washington, on the day of a true copy of which convention is, word for word, as follows:

[Here follows the convention]

And whereas the Senate of the United States, by their resolution of (two-thirds of the Senators present concurring therein) did advise and consent to the ratification of said convention:

Now, therefore, be it known that I , President of the United States of America, have seen and considered the said convention, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof.

In testimony whereof, I have caused the Seal of the United States of America to be hereunto affixed.

Given under my hand. &c.

[President's signature.]

[SEAL.]

By the President:

[Secretary of State's signature.]

Secretary of State.

The protocol of exchange says:

The undersigned plenipotentiaries having met together for the purpose of exchanging the ratifications of the convention signed at January , 18 between the United States of America and for the purpose and the ratifications of the convention aforesaid having been carefully compared, and found exactly conformable to each other, the exchange took place this day in the usual form.

In witness whereof, they have signed the present protocol of exchange, and have affixed their seals thereto.

Done at this day of

[Signatures and seals of plenipotentiaries.]

The President then formally proclaims the treaty, the proclamation being prepared by the Diplomatic Bureau, and the treaty is filed in the Bureau of Rolls and Library.

A treaty negotiated by one of our agents abroad is received by the State Department after it has been signed, and goes to the Senate in the same manner as if it had been negotiated in this country. The final ratified treaty is sent to the minister and exchanged in the foreign country, in the same way that treaties are exchanged in this country.

The fullest records of treaty negotiations are usually in the case of extradition treaties, because of the definitions of legal terms which both parties must agree to.

Extradition, "the act by which one nation delivers up an individual accused or convicted of an offense outside of its own territory," is one of the functions committed to the Secretary of State, as the official charged with the duty of conducting foreign intercourse.[1] In the earlier days of the republic, this function was not infrequently discharged by the governors of the individual states, in some cases with the approval of the Secretary of State, and in others without consulting him. Some of our states have even gone so far as to enact statutes, conferring on their chief executives the power to deliver up fugitives from justice to foreign nations. But with the development and clearer comprehension of the powers of the national government, the states have ceased to deal

[1] See Moore on Extradition, 1891.

with the subject, and it is now generally admitted to belong exclusively to the Government of the United States. In one case, however, the United States did by treaty agree that applications for extradition might be made and granted by state and territorial governments. This was the agreement in the treaty of 1861 with Mexico, which provided that for offenses committed in the frontier states and territories of the contracting parties, applications for extradition might be made to the state and territorial governments. The provision has been repeated in the treaty of 1899. It does not preclude the exercise of supreme control in the matter by the national government.

It has been the almost uniform opinion of our constitutional lawyers that extradition can lawfully be granted by the United States only in pursuance of a statute or a treaty; and, as the only Federal legislation on the subject is that which has been adopted to execute our treaties, the government declines to extradite fugitives from justice in the absence of a conventional obligation.

Under similar circumstances it refrains from demanding the surrender of fugitives by other governments. In rare cases, in the absence of a treaty, an appeal has been made to the good will of a foreign government to deliver up a notorious offender. But, as foreign governments are likely to demand a promise of reciprocity in such cases, and as the United States is unable to make such a promise, the appeal must always be attended with much embarrassment, and is resorted to infrequently.

The first treaty of this country providing for mutual surrender of criminals was that of 1794 with Great Britain. Murder and forgery were the only crimes included in it, and it expired in twelve years. But since the conclusion of a new treaty with Great Britain in 1842, treaties have been entered into with many Powers, and the practice of extradition has become general.

The forms of extradition warrants now in use are three: the mandate, called often—although incorrectly—the "warrant of arrest"; the warrant of surrender; and the President's warrant, authorizing agents to go abroad and bring back surrendered criminals.

The first mandate was issued in 1853, upon application of the British Minister, and was signed by President Franklin Pierce. Prior to that time, the persons authorized to apply for the extradition of a criminal went, in the first instance, to the courts. But owing to doubts suggested by one of our judges as to the regularity of this procedure, a practice grew up of applying to the Secretary of State for a mandate to authorize the institution of judicial proceedings. Although this course was afterwards prescribed by some of our treaties, it is not prescribed in others, and has been held by the Supreme Court to be unnecessary. It is now no longer issued by the Department of State, unless required by treaty. Up to 1860 the mandate was signed by the President, but since then it has been signed by the Secretary of State. The form now used is as follows:

DEPARTMENT OF STATE

To any Justice of the Supreme Court of the United States; any Judge of the Circuit or District Courts of the United States in any District; any Judge of a Court of Record of General Jurisdiction in any State or Territory of the United States, or to any Commissioner specially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States, for giving effect to certain treaty stipulations between this and foreign Governments, for the apprehension and delivering up of certain offenders.

Whereas, pursuant to existing treaty stipulations between the United States of America [name of the foreign Power to which the criminal is to be surrendered] for the mutual delivery of criminals, fugitives from justice in certain cases, [name of the foreign representative making the demand] has made application in due form, to the proper authorities thereof, for the arrest of [name or names of the offender or offenders], charged with the crime of [nature of the crime], and alleged to be [statement of the country from whence the flight was made] and who ["is" or "are"] believed to be within the jurisdiction of the United States.

And whereas, it appears proper that the said [name or names of the offender or offenders] should be apprehended, and the case examined in the mode provided by the laws of the United States aforesaid.

Now, therefore, to the end that the above-named officers, or any of them, may cause the necessary proceedings to be had, in pursuance of said laws, in order that, the evidence of the criminality of the said [name or names of the offender or offenders] may be heard and considered, and, if deemed sufficient to sustain the charge, that the same may be certified, together with a copy of all the proceedings, to the Secretary of State, that a warrant may issue for ["his" or "their"] surrender, pursuant to said treaty stipulations. I certify the facts above recited.

In testimony whereof, I have hereunto signed my name and caused the seal of the Department of State to be affixed.

Done at the City of Washington, this day of A. D., 1 , and of the Independence of the United States the .

.....

[SEAL.] Secretary of State.

The warrant of surrender has suffered only such alterations as have been made necessary by changes in the law. Like the mandate, it was signed by the President until 1860, since which time it has been signed by the Secretary of State, by whom the law provides that it shall be issued. The form is as follows:

DEPARTMENT OF STATE

To all whom these Presents shall come, Greeting:

Whereas, [name and title of foreign representative making the demand], accredited to this Government, has made requisition in conformity with the provisions of existing treaty stipulations between the United States of America and [name of foreign power] for the mutual delivery of criminals, fugitives from justice in certain cases, for the delivery up of [name or names of offender or offenders], charged with the crime of [nature of crime], committed within the jurisdiction of [name of foreign country where crime was committed]

And whereas, the said [name or names of offender or offenders] ["has" or "have"] been found within the jurisdiction of the United States, and ["has" or "have"], by proper authority and due form of law, been brought before [name of Commissioner or Judge of the United States before whom the examination has been held] for examination upon said charge of [nature of crime.]

And whereas, the said ["Commissioner" or "Judge"] has

found and adjudged that the evidence produced against the said [name or names of offender or offenders] is sufficient in law to justify ["his" or "their"] commitment upon the said charge, and has, therefore, ordered that the said [name or names of offender or offenders] be committed pursuant to the provisions of said treaty stipulations.

Now, therefore, pursuant to the provisions of Section 5272 of the Revised Statutes of the United States, These Presents are to require the United States Marshal for the [district or State], or any other public officer or person having charge or custody of the aforesaid [name or names of the offender or offenders], to surrender and deliver ["him" or "them"] up to such person or persons as may be duly authorized by the Government of [name of foreign power] to receive the said [name or names of offender or offenders] to be tried for the crime of which ["he is" or "they are"] so accused.

In testimony whereof, I have hereunto signed my name and caused the seal of the Department of State to be affixed.

Done at the City of Washington, this day of , A. D., 19 , and of the Independence of the United States the

.....,

[SEAL.] Secretary of State.

The President's warrant, authorizing an officer of the United States to take a fugitive into custody and bring him back to the United States for trial, is issued in the following form:

[President's name],

President of the United States of America.

To [officer to take the offender into custody].

Whereas, it appears by information in due form by me received, that [name or names of offender or offenders], charged with the crime of [nature of crime], fugitive from the justice of the United States, [whence fled].

And whereas, application has been made to the [name of foreign authorities] for the extradition of said fugitive, in compliance with existing treaty stipulations between the United States of America and [name of foreign Power].

And whereas, it is understood that, in compliance with such application, the necessary warrant is ready to be issued by the authorities aforesaid for the delivery of the above-named fugitive into the custody of such person or persons as may be duly authorized to receive the said fugitive and bring ["him" or "them"] back to the United States for trial.

Now, therefore, you are hereby authorized and empowered, in virtue of the stipulations, aforesaid, and in execution thereof, to receive the said [name or names of offender or offenders] as aforesaid, and to take and hold ["him" or "them"] in your custody, and conduct ["him" or "them"] from such place of delivery [to what country the flight has been made], by the most direct and convenient means of transportation, to and into the United States, there to surrender the said [name or names of offender or offenders] to the proper authorities of the [name of the State making the request].

For all of which these Presents shall be your sufficient warrant.

In testimony whereof, I have hereunto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington this day of , A. D., 18 , and of the Independence of the United States the one hundred and

.....

[SEAL.]

By the President:

....., *Secretary of State.*

The forms quoted above have been printed for the past twenty-six years. Prior to that the warrants

were written out. Before leaving the Department, the extradition warrants are recorded in three books, entitled, variously, "Warrants of Arrest," "Warrants of Surrender," and "President's Warrants." These date back only to 1862, the warrants before that time being recorded in the volumes of pardons issued by the Department.

The instructions on the subject of extradition are embodied in the following circular:

MEMORANDUM RELATIVE TO APPLICATIONS FOR THE EXTRADITION FROM FOREIGN COUNTRIES OF FUGITIVES FROM JUSTICE

DEPARTMENT OF STATE,

WASHINGTON, October, 1892.

Extradition will only be asked from a government with which the United States has an extradition treaty, and only for an offense specified in the treaty.

All applications for requisitions should be addressed to the Secretary of State, accompanied by the necessary papers as herein stated.[1] When extradition is sought for an offense within the jurisdiction of the State or Territorial courts, the application must come from the Governor of the State or Territory. When the offense is against the United States, the application should come from the Attorney-General.

In every application for a requisition it must be made to appear that one of the offenses enumerated in the extradition treaty between the United States and the government from which extradition is sought has been committed within the

[1] The only exception is found in the treaty with Mexico, under which, in the case of crimes committed in the frontier States or Territories, requisitions may be made directly by the proper authorities of the State or Territory. (Article 2, treaty with Mexico, concluded December 11, 1861.)

jurisdiction of the United States, or of some one of the States or Territories, and that the person charged therewith is believed to have sought an asylum or has been found within the dominions of such foreign government.

The extradition treaties of the United States ordinarily provide that the surrender of a fugitive shall only be granted upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his or her commitment for trial if the crime or offense had been there committed.

If the person whose extradition is desired has been convicted of a crime or offense and escaped thereafter, a duly authenticated copy of the record of conviction and sentence of the court is ordinarily sufficient.

If the fugitive has not been convicted, but is merely charged with crime, a duly authenticated copy of the indictment or information, if any, and of the warrant of arrest and return thereto, accompanied by a copy of the evidence upon which the indictment was found, or the warrant of arrest issued, or by original depositions setting forth as fully as possible the circumstances of the crime, are usually necessary. Many of our treaties require the production of a duly authenticated copy of the warrant of arrest in this country; but an indictment, information, or warrant of arrest alone, without the accompanying proofs, is not ordinarily sufficient. It is desirable to make out as strong a case as possible, in order to meet the contingencies of the local requirements at the place of arrest.

If the extradition of the fugitive is sought for several offenses copies of the several convictions, indictments, or informations, and of the documents in support of each should be furnished.

Applications for the extradition of a fugitive should state his full name, if known, and his alias, if any, the offense or offenses, in the language of the treaty, upon which his extradition is desired, and the full name of the person proposed

for designation by the President to receive and convey the prisoner to the United States.

As the application proper is desired solely by the Department as a basis for its action, and is retained by it, it is not necessary that it should be attached to the evidence.

Copies of the record of conviction, or of the indictment, or information, and of the warrant of arrest, and the other papers and documents going to make up the evidence are required by the Department, in the first instance, as a basis for requesting the surrender of the fugitive, but chiefly in order that they may be duly authenticated under the seal of the Department, so as to make them receivable as evidence where the fugitive is arrested, upon the question of his surrender.

Copies of all papers going to make up the evidence, transmitted as herein required, including the record of conviction, or the indictment, or information, and the warrant of arrest, must be duly certified and then authenticated under the great seal of the State making the application or the seal of the Department of Justice, as the case may be; and this Department will authenticate the seal of the State or of the Department of Justice. For example, if a deposition is made before a justice of the peace, the official character of the justice and his authority to administer oaths should be attested by the county clerk or other superior certifying officer; the certificate of the county clerk should be authenticated by the Governor or Secretary of State under the seal of the State, and the latter will be authenticated by this Department. If there is but one authentication, it should plainly cover all the papers attached.

All of the papers herein required in the way of evidence must be transmitted in duplicate, one copy to be retained in the files of the Department, and the other, duly authenticated by the Secretary of State, will be returned with the President's warrant, for the use of the agent who may be designated to receive the fugitive. As the Governor of the State,

or the Department of Justice, also ordinarily requires a copy, *prosecuting attorneys should have all papers made in triplicate.*

By the practice of some of the countries with which the United States has treaties, in order to entitle copies of depositions to be received in evidence the party producing them is required to declare under oath that they are true copies of the original depositions. It is desirable, therefore, that such agent, either from a comparison of the copies with the originals, or from having been present at the attestations of the copies, should be prepared to make such declaration. When the original depositions are forwarded, such declaration is not required.

Applications by telegraph or letter are frequently made to this Department for its intervention to obtain the provisional arrest and detention of fugitives in foreign countries, in advance of the presentation of the formal proofs upon which a demand for their extradition may be based. Such applications should state specifically the name of the fugitive, the offense with which he is charged, the circumstances of the crime as fully as possible, and a description and identification of the accused. It is always helpful to show that an indictment has been found or a warrant of arrest has been issued for the apprehension of the accused. In Great Britain the practice makes it essential that it shall appear that a warrant of arrest has been issued in this country.

Care should be taken to observe the provisions of the particular treaty under which extradition is sought, and to comply with any special provisions contained therein. The extradition treaties of the United States may be found in the several volumes of the Statutes at Large, in the "Revised Statutes of the United States, relating to the District of Columbia and Post Roads, together with Public Treaties in force on the 1st day of December, 1873," and in the volume of Public Treaties, 1887. Copies of individual treaties will be furnished by the Department upon application.

If the offense charged be a violation of a law of a State or Territory, the agent authorized by the President to receive the fugitive will be required to deliver him to the authorities of such State or Territory. If the offense charged be a violation of a law of the United States, the agent will be required to deliver the fugitive to the proper authorities of the United States for the judicial district having jurisdiction of the offense.

Where the requisition is made for an offense against the laws of a State or Territory, the expenses attending the apprehension and delivery of the fugitive must be borne by such State or Territory. Expenses of extradition are defrayed by the United States only when the offense is against its own laws.

A strict compliance with these requirements may save much delay and expense to the party seeking the extradition of a fugitive criminal.

Special detailed instructions for extraditions from Mexico were issued, April 10, 1900, and for Great Britain, May, 1890.

The last instruction was:

DEPARTMENT OF STATE
WASHINGTON, June 4, 1906.

His Excellency
The Governor of
. . . . . .

Sir:

In view of certain irregularities which have sometimes occurred in connection with the return to the United States from foreign countries of fugitives from justice, applications for extradition of such fugitives which are addressed to the Secretary of State should hereafter state that such application is made solely for the purpose or purposes expressed therein, and not for the purpose of enforcing the collection of a debt,

or of avoiding the penalty of a bail bond, or for any private purpose whatever, and that if the application be granted the criminal proceedings shall not be used for any of said purposes. A form of certificate is hereto subjoined, and a separate blank for your use is enclosed.

I have the honor to be, Sir,
Your obedient servant,
ROBERT BACON,
Acting Secretary

CERTIFICATE

I, , Governor of , do hereby certify that the accompanying application presented by me on behalf of the of , for the extradition of from , is made solely for the purpose of securing his trial and punishment for the offense of

.....

and not in order to enforce the collection of a debt, or to avoid the penalty of a bail bond, or for any private purpose whatever, and that if the application be granted the criminal proceedings shall not be used for any of said purposes.

.....
Governor of

The entire management of extradition questions belongs immediately to the Solicitor's Office. The warrants are prepared by the Bureau of Appointments on his order, and the papers are filed in the Index Bureau, which has in its custody the great body of the Department's records.

The most difficult task in the Department's internal administration has been to find a satisfactory system of indexing, filing, and recording its correspondence.

Old correspondence is more often used in current negotiations in this Department than in any other. Recently the most conspicuous international question before the people involved the construction of a treaty made with Russia in 1832, and the history of the treaty extends back of that date. A few years ago the fisheries question with Great Britain was arbitrated at The Hague. It goes back to a period before American independence. It is, therefore, necessary for the efficient conduct of the Department's business that all of its correspondence be preserved, no matter how old it may be, and that it be accessible for present-day purposes.

Although the arrangement of 1833 made the Bureau of Archives, Laws and Commissions,[1] all the archives of the Department were not then concentrated in that bureau, the diplomatic archives being under the Diplomatic Bureau and the consular under the Consular Bureau. The miscellaneous archives passed sometime after 1833 to the keeping of the Librarian of the Department; then, under Secretary Fish's arrangement of 1870, to the Chief Clerk's Bureau; then, in 1874, to the Bureau of Indexes and Archives. That bureau took over, at the same time, the diplomatic and consular archives. It did not take the applications for office, which remained, where they now are, in the Commission or Appointment Bureau, nor the passport applications and correspondence, which remained where they now are, in the Passport or Citizenship Bureau.

[1] *Ante*, p. 221.

The diplomatic and consular archives have been divided from the beginning into two general classes, instructions to diplomatic and consular agents and despatches from them, the former being recorded in books, the latter bound in large volumes. The diplomatic instructions were recorded in chronological order, all countries being together, until 1833, since which date each country has had a separate series of record books.[1] The record books had an index from 1789 to 1870 in the front of each book; after 1870 all the indexing was in separate folio books, one for diplomatic incoming communications, one for diplomatic outgoing mail, and the same system for consular and miscellaneous communications, making six index books in all. The indexes to the despatches to the Department from diplomatic and consular officers were in separate volumes up to 1870. The notes from the Department to foreign ministers were recorded with the domestic correspondence from 1789 to 1804; then in volumes by themselves, all countries being together up to 1834; but since then each country has had a separate series of record books. They were indexed in the front of each volume till 1870. The notes from foreign ministers to the Secretary of State have always been bound by countries, but there were no indexes from 1789 to 1828; then they were indexed with the despatches until 1870. Instructions to consuls from 1789 to 1800 were recorded among the domestic letters; since then they have had separate record books and the indexing has been on very much the same

[1] Inventory of Archives (Confidential), 1897.

system as the diplomatic correspondence. The miscellaneous archives are divided into domestic letters, miscellaneous volumes, and miscellaneous papers. The Domestic Letters are the recorded letters from the Department, the first four volumes from 1784 to 1792 being called American Letters; thereafter the existing nomenclature was employed. Up to 1870 each volume contained a general index of persons to whom the letters were written and there were separate index books for some periods until 1870. The Miscellaneous Letters are the domestic letters to the Department, all bound chronologically, of which indexes were made in recent years, that from 1789 to 1820 being printed by the Department for confidential use in 1897. There were also indexes for scattered periods up to 1870.

The Report Books are recorded letters from the Department or the President to the Senate or House of Representatives on Department subjects beginning with 1790. Up to 1870 each volume had its index; since then they are indexed as part of the miscellaneous correspondence. The miscellaneous volumes include papers pertaining to claims, international congresses, arbitration, territorial papers, reports from special agents, international expositions, reports of commissions, etc. The miscellaneous papers are archives of the same character in packages not bound.

The establishment of the folio index books in 1870 centralizing the indexing of the correspondence, followed by the concentration of the archives themselves in 1874, marked an important development in Department system. The system then inaugurated continued

in use for thirty-five years, but as the correspondence increased in volume, it was found to be insufficient, mainly because of the difficulty of bringing together all the papers, diplomatic, consular, and miscellaneous, which pertained to a given subject. Accordingly, under Secretary Root's order in 1909, a new system of numerical subjective filing, somewhat on the order of a modern library system of classification, was inaugurated. It was modified the following year and brought to further perfection. The explanation by John R. Buck, Chief of the Bureau of Indexes and Archives, printed for the Department's use, is as follows:

> The present classification of the correspondence of record in the Bureau of Indexes and Archives is so devised that the arrangement of the file itself serves the general purposes of a subject index. Conversely, the subject-matter of a given paper determines the filing place of the paper and therefore its file number.
>
> The nine primary classes of the file are:
>
> Class 0. General.
> Class 1. Administration, Government of the United States.
> Class 2. Extradition.
> Class 3. Protection of Interests.
> Class 4. Claims.
> Class 5. International Congresses and Conferences. International Treaties.
> Class 6. Commerce. Commercial Relations.
> Class 7. Political Relations of States.
> Class 8. Internal Affairs of States.

Each of these classes is divided, according to the decimal system, until each distinct subject has its own file number.

This file number consists of at least three figures and a decimal point, the point always following the third figure, save that where a letter is appended to the third figure the point is placed after the letter. In every class except 5 correspondence is arranged, to a greater or less extent, according to the country concerned, as per table appended to the classification, wherein all independent countries and many smaller political divisions have their respective numbers, each consisting of two figures or two figures and one letter.

The indication for the insertion of a country number is the occurrence in the classification of two stars or daggers, and the significance of these marks on the respective pages of the classification is appropriately explained.

A similar table, likewise appended to the classification, assigns a three-figure number to each principal consular office of the United States, space being left for the inclusion of offices hereafter to be established. A consulate number is indicated by three stars.

CLASS 0. GENERAL. MISCELLANEOUS

In this class appear matters which apply to the files and records of the Bureau in general, as inventories and press-copy books; matters of an ephemeral nature, and therefore not worthy of more particular classification; and some divisions which touch on the subject-matter of two or more of the succeeding classes but are more conveniently arranged by themselves.

CLASS 1. ADMINISTRATION, GOVERNMENT OF THE UNITED STATES

This class comprises matters pertaining to the Government of the United States of a nature requiring further elaboration than is feasible in the succeeding classes, in which theoretically they belong. Thus, Citizenship of the United States (811.012) becomes a division of Class 1, as 130. Documen-

tation of merchandise under United States customs laws (611.0023) becomes 140 in Class 1.

CLASS 2. EXTRADITION

Extradition cases are arranged by countries. The country number immediately following the class number indicates the country from which rendition is sought. After the decimal point appears the number of the demanding country. Thus, under 212.11 are found all cases of extradition from Mexico to the United States. Inversely, 211.12 includes all cases from the United States to Mexico. Under each number individual cases are arranged alphabetically.

For convenience this class includes also cases in which prosecution of a person in one country for crime committed in another is proposed or requested. In these cases the number of the former country precedes the decimal point and that of the latter follows a zero after the point. Thus, 265.011 would signify prosecutions in Italy (in lieu of extradition) of persons charged with crimes committed in the United States.

CLASS 3. PROTECTION OF INTERESTS

Class 3 covers private interests in general and their protection. Immediately after the class number comes the number of the country in which the interest is jeopardized or in which protection is sought. After the decimal point comes the country number of the nationality of the interest.

The sixth figure of the file number indicates the general category in which the case in question falls. Further arrangement is made alphabetically under the name of the party in interest.

Correspondence looking to the procurement of a concession or permit to do business in a country belongs in Class 8 rather than Class 3. Thus, the application of an American life-insurance company for a license to operate in a foreign country is classified as 8**.506.

CLASS 4. CLAIMS

The arrangement of this class is similar to that of Class 2, Extradition, the number of the country against which the claim is made following the class number, while the country number after the point indicates the nationality of the claim. All claims falling into each such division are arranged alphabetically under the name of the claimant.

A special arrangement is here made for those categories of claims which, originally lying against another government, are ultimately assumed by the government of the nationality of the claim, as against itself; thus: French Spoliation Claims, 411.051; Spanish Treaty Claims, 411.052.

CLASS 5. INTERNATIONAL CONGRESSES AND CONFERENCES. INTERNATIONAL TREATIES

In this class are grouped matters of common interest to the governments or the people of several countries, whether forming the subject of treaty engagements or not. Exception, however, is made of conferences, etc., particularly affecting the affairs of a single state, as the Algeciras Conference of 1905, which is classed with political affairs in Morocco.

The arrangement of this class for convenience is made to correspond to the arrangement of Class 8, since the ground covered is substantially the same. A few special numbers are provided, however, at the beginning of the class for broad questions of international relations.

CLASS 6. COMMERCE. COMMERCIAL RELATIONS

This class treats of the trade of a country, its customs administration, import and export duties, export bounties, pure-food laws, etc., and their bearing on the commerce of other countries.

The country number immediately following the class number is invariably that of the importing country; that after the decimal point the exporting country; thus:

641.00 Imports of Great Britain.
641.11 { Imports of Great Britain from the United States.
Exports of the United States to Great Britain.
600.11 Exports of the United States.

The sixth digit of the file number indicates: 1, general conditions affecting commerce, divided as between import and export trade; 2, 3, 4, 5, and 6, laws and regulations of the importing country; 7, 8, and 9, laws, etc., of the exporting country; thus:

662.003 German import tariff.
662.113 German import tariff in its application to American commerce.
611.514 Food and drugs act of the United States, as applied to imports from France.
600.618 Export bounties granted by Russia.

The subject of commercial relations is made subordinate to that of customs, tariffs; thus:

611.6231 Commercial relations between the United States and Germany.

CLASS 7. POLITICAL RELATIONS OF STATES

Class 7 comprises international relations, diplomatic and consular representation, etc. While most treaties and conventions are included therein, exceptions are made, as the following:

Extradition treaties, Class 2.
Claims conventions, Class 4.
International treaties, Class 5.
Tariff convention, Class 6.
Postal conventions, Class 8.

The subdivision 701 deals with diplomatic representation. Immunities, etc., come under 701.01 to 701.09. The number 701.** indicates the diplomatic service of a country, 701.**††

its mission near the Government of the country ††, while the body of foreign representatives (diplomatic corps) in a country is indicated by the number 701.00††.

Under 702 is similarly treated the subject of consular representation.

The exercise of good offices by the legation of the United States on behalf of the interests of France (51) in Venezuela (31) would be indicated by the number 704.5131.

The broad relations of one state with another are indicated by the two country numbers following the class number, 7, the smaller number preceding and the greater following the decimal point; thus:

761.93 Relations between Russia and China.

CLASS 8. INTERNAL AFFAIRS OF STATES

This class, with a few exceptions, is confined to purely internal matters.

In Class 8, where two country numbers are used in a single file number, the smaller number precedes the greater, except where another order is specified.[1]

Having considered the main functions of the Department it remains to indicate how they are distributed. The distribution of 1911 is taken. It has undergone some slight modification recently, but no permanent readjustment has been reached at the present time.[2]

The Secretary, Assistant Secretaries, Solicitor, and Counsellor have general authority over the whole Department. Specifically, the Secretary and Assistant Secretary supervise all the other officers, divisions, and bureaus. Under the Second Assistant Secretary

[1] Classification of Correspondence, 1911.

[2] *Outline of the Organization and Work of the Department of State,* 1911.

is the diplomatic branch of the Department's affairs; under the Solicitor the Bureau of Citizenship; under the Third Assistant Secretary the Bureau of Rolls and Library, Bureau of Accounts, and Diplomatic Bureau in part; under the Director of the Consular Service the Consular Bureau and Office of Trade Relations; under the Chief Clerk the translators, printing office, stationery room, telephone room, carpenter, lithographer, mail room, dispatch agents, and stables. The Division of Far Eastern Affairs has charge of interests other than of an administrative nature in Japan, China, Siberia, Hongkong, French Indo-China, Siam, the Straits Settlements, Borneo, East Indies, and India. The Division of Near Eastern Affairs has similar jurisdiction in Germany, Austria-Hungary, Russia, Roumania, Servia, Bulgaria, Montenegro, Turkey, Greece, Italy, Abyssinia, Persia, Egypt, and colonies of those countries. The Western European Division has Great Britain and colonies, Portugal, Spain, France, Morocco, Belgium, the Congo, Switzerland, Norway, Sweden, the Netherlands, Luxemburg, Denmark, and Liberia. The Diplomatic Bureau has the administration of the diplomatic service at large, its personnel, ceremonial matters, the formalities of treaty-making, and miscellaneous correspondence relating to diplomatic affairs. The Consular Bureau has similar jurisdiction over the consular corps. The Office of Trade Relations has supervision of trade reports and trade correspondence of American consular and diplomatic affairs, the compilation of commercial information

and drafting of official correspondence on commercial questions. The Bureau of Appointments has charge of all applications, examinations, and appointments to office, makes out commissions and nominations, makes out and records extradition warrants, prepares the Department registers and has the custody of the great seal. The Bureau of Citizenship has the issuance of passports at home and abroad under its supervision, and consideration of questions of citizenship and protection of Americans abroad, registrations and authentications, and has custody of the Department seal. The Division of Information collects and prepares information concerning our foreign affairs, which is sent to diplomatic and consular officers. The Bureau of Accounts manages the Department finances, receiving and disbursing its funds, managing the accounts of all kinds, diplomatic, consular, Departmental, and international indemnity trust funds. The Bureau of Rolls and Library manages the library, books, documents, orders, laws, and certain miscellaneous archives which have been described. The Law Clerk prepares the laws for publication. The Bureau of Indexes and Archives records, distributes, files, and indexes the Department correspondence. The mailing section of the Department forwards and receives all mail, domestic and foreign, the latter including the official mail which goes in sealed pouches to American diplomatic officers. The translators translate all official correspondence that may be sent to them. The foreign languages employed by diplomatic officers in Washington are French, German, Italian, Spanish,

and Portuguese. The Russian representative uses French or English, the Turkish, Japanese, and Chinese use English. Letters come to the Department in many languages, however—Swedish, Norwegian, Polish, Russian, Magyar, Greek, Hungarian, Chinese, Japanese, and Hebrew being among them.

CHAPTER XVII

BUILDINGS OCCUPIED

THE first meeting place of the Congress, where the plan for the conduct of our foreign affairs was first taken into consideration, was Carpenters' Hall, a building which had been constructed for the Society of House Carpenters of Philadelphia. It stands at the end of an alley, south from Chestnut Street, between Third and Fourth Streets. The lower floor, consisting of one large room, was occupied by the Congress, and the rooms in the second story by committees. From Carpenters' Hall the government went to what has ever since been known as Independence Hall.

As soon as the Department of Foreign Affairs was organized under Livingston, it took possession of a small house in Philadelphia, owned by Peter S. Du Ponceau, No. 13 South Sixth Street, on the eastern side. Livingston's office was in the front room of the second floor, and in the back room were the under-secretaries, while the clerks and interpreters occupied the room on the ground floor. This building was demolished in 1846. It was occupied as the Office of Foreign Affairs from the latter part of 1781 up to June, 1783, when the Department was practically suspended until Jay took control of it in 1785.

In January, 1785, the seat of government being moved to New York, the Department of Foreign Affairs found quarters in the famous Fraunce's Tavern, in the long room of which Washington had taken farewell of the generals of the Revolution at the close of the war. Here it remained till 1788, when it moved to the west side of Broadway, in a house owned by Philip Livingston, near the Battery. Later it was moved to another house on the same street on the opposite side.

The capital having been again located at Philadelphia, the Department took up its abode first on Market Street, then on the southeast corner of Arch and Sixth Streets, then in North Alley, and finally at the northeast corner of Fifth and Chestnut Streets, where it remained until it was moved to Washington, except for an interval of three months from August to November, 1798, when it occupied the State House at Trenton, N. J., the office being moved from Philadephia on account of an epidemic of yellow fever.

On June 1, 1800, the archives were lodged in the Treasury, the only building sufficiently completed to receive them, and August 27 were placed in one of the "six buildings" on Pennsylvania Avenue and Twentieth Street. In May, 1801, the offices were placed in the large brick building on Seventeenth Street, opposite G Street, known as the War Office, and here they remained up to December, 1819, with an interval from September, 1814, to April, 1816, when it occupied a building on the south side of G Street, near Eighteenth, pending the repair of its former

building, which had been demolished in the invasion of the city by the British troops.

In January, 1820, the offices were moved to the corner of Fifteenth Street and Pennsylvania Avenue, the site now covered by the north wing of the United States Treasury, and there it remained up to October, 1866, when it leased the premises then belonging, as now, to the Washington Orphan Asylum, on Fourteenth Street, near S Street. It remained there until July, 1875, when it was removed to its present quarters, which constitute the south wing of the State, War, and Navy Building.

When it first moved to its present home it did not fill the whole building and all the space above the third floor was given over to the storage of newspapers and books, while about a fourth part of the basement and first floor were not used. The latter space was given to the Navy Department, and when the newspapers were moved to the Library of Congress the fourth floor and attic of the Department's wing were occupied by the War Department. This arrangement proved in the end most unfortunate. Had the Department retained the whole wing originally allotted to it, all of its offices might even now be under the same roof and the increasing embarrassment to its business by overcrowding and separation might have been avoided. The quarters which it occupied were reasonably sufficient until about 1895; after that time they became more and more crowded, until separation from the main building of some of the offices became imperative. The first bureau to go was the Bureau

of Trade Relations, which was given quarters in the Rochambeau Apartment House on Connecticut Avenue near H Street. A house on Seventeenth Street opposite the Department, at the corner of New York Avenue, was next rented by the Department in 1908 and occupied by the Bureau of Citizenship, the Bureau of Trade Relations, and the translator. More crowding in the main building sent the Solicitor's office to take the place of the Bureau of Trade Relations, which moved in 1909 to the Union Trust Company's building, at the corner of Fifteenth and H Streets. To this building came also the Bureau of Accounts in 1910. In 1911 the building on Seventeenth Street was abandoned and the house of Blair Lee, Esq., on Pennsylvania Avenue, opposite the War Department, was rented.

In his report of 1896, Secretary Olney said that a new building for the Department would soon be imperative, and since then the necessity has been urged repeatedly by Secretaries of State. The Act of July 25, 1910, provided for the purchase of the land bounded by Pennsylvania Avenue, Fifteenth Street, the Mall and Fourteenth Street, on which to erect buildings for the State Department and the Departments of Commerce and Labor and Justice.

A competition for designs for the new building was held, twenty firms of architects being invited to compete, and on January 6, 1911, the award for the best design was made to Mr. Arnold W. Brunner of New York. From Mr. Brunner the following notes of the design have been obtained.

The Department of State is intended to form one of the group of three buildings facing Fifteenth Street. The new building for the Department of Commerce and Labor is to be located to the north of it, and the building for the Department of Justice is to be placed between that and Pennsylvania Avenue.

The new building for the Department of State, which is approximately 325 feet square, has its principal façade on the Mall. This façade is broken in the center by a great portico consisting of a double row of ten Corinthian columns 53 feet high supporting a pediment, the apex of which is 87 feet above the first floor. These columns rest upon a platform approached by a flight of steps 110 feet in width.

The remainder of the building is treated simply with a Doric cornice. There are two projecting pavilions with columns on the Fourteenth and on the Fifteenth Street fronts. The B Street elevation has a series of columns indicating the library.

The building is placed on a terrace, which completely frames it and is extended on the B Street elevation to provide proper approaches. There is one large interior court.

The great portico of the south front marks the monumental portion of the building, while the suites of offices are clearly indicated by the treatment of the windows of the other portion of the exterior.

On the main floor there is the great entrance hall 31 feet wide and 122 feet long. A monumental staircase, 24 feet wide, leads from this to a rotunda surrounded by a gallery, which gives access to the

hall for international conferences, reception rooms, and state dining room.

The hall for international conferences is 40 feet wide and 122 feet long and is subdivided into three bays. It is ornamented with columns and pilasters and has an elaborate ceiling. There are committee rooms in connection with it conveniently located.

The banqueting hall is 35 feet by 67 feet and can be approached either from the galleries surrounding the rotunda, or through the reception rooms. In connection with the dining room there are kitchens, service pantries, etc.

Provision for an entrance for carriages and automobiles is provided for this portion of the building, with ample coat rooms, etc.

The central portion of the building is specially designed for important state functions and planned to secure good circulation for large crowds of people. It can be separated from the rest of the building if desired, but it is connected with the principal offices of the Secretary of State.

The library of the Department is placed in the center of the north front, and contains a large entrance hall with steel vault for the most important documents, reading rooms for special study, stack room, and the usual library equipment, all of which is to be of fireproof construction.

The rest of the building is divided into offices for the various subdivisions of the Department.

Besides the entrances on the Mall and on B Street, there are two on Fifteenth Street and two on Four-

teenth Street. Carriage entrances to the court are also provided on B Street.

The offices for the Secretary of State and his assistants are located on the first floor, in the southwest corner of the building, in close connection with the rooms for state functions and with the diplomatic reception rooms.

The rooms used for diplomatic conferences and receptions are large and dignified and are connected by a vaulted anteroom which opens on a terrace that overlooks the court.

Besides the main staircase there are four staircases in the building with ample elevator service, and a private staircase and elevator in connection with the Secretary's office.

Special provision has been made for space for filing documents, and 30,000 square feet of space is allotted for filing space for the future.

The following is a list of offices used for the various subdivisions of the State Department:

Secretary's Group

Office of the Secretary of State

Private office, public office, anteroom, two rooms for private secretaries, one for clerks, private toilet rooms, etc.

Office of the Assistant Secretary of State

Private office, general office, anteroom, two rooms for private secretaries.

Assistant Secretaries and Chief Clerk

Office of the Second Assistant Secretary

Office, anteroom, private secretary, vault and toilet.

Office of the Third Assistant Secretary

Office, anteroom, private secretary, vault and toilet.

Director of Consular Service

Office, anteroom, private secretary, vault and toilet.

Chief Clerk

Office, anteroom, private secretary, vault and toilet.

Law Division

The Counsellor

Office, anteroom, private secretary, vault and toilet.

The Solicitor

Private office, offices for assistant solicitors and law clerks, anteroom, chief clerk, offices for stenographers and two rooms for arbitration work.

Bureau of Rolls and Library

Office of Chief of Bureau

Vault, toilet, large fireproof steel vault, library large enough to take care of 100,000 volumes, reading room, document clerk, map room, room for files, catalogue room, nine study and typewriter rooms, packing rooms, newspaper room for 2,500 bound volumes.

Bureau of Trade Relations

Office of Chief of Bureau

Anteroom, rooms for two commercial advisers, reference library, two typewriter rooms, editorial office, statistical office and files room.

Geographical Divisions

Division of Western European Affairs

Rooms for Chief of Division, anteroom, clerical force, typewriters, four rooms for officers on detail, vault and toilet.

Division of Latin American Affairs

Rooms for Chief of Division, vault and toilet and anteroom, two assistant chiefs, conference room, files room, drafting room, typewriter room, six rooms for officers on detail and two additional offices.

Division of Far Eastern Affairs

Rooms for Chief of Division, anterooms, clerical force, typewriters, four rooms for officers on detail, vault and toilet.

Division of Near Eastern Affairs

Rooms for Chief of Division, anteroom, clerical force, typewriters, four rooms for officers on detail, vault and toilet.

Bureaus

Diplomatic Bureau

Offices for Chief of Bureau, assistant chief, ante-

room, rooms for clerks, mailing room, diplomatic school, vault and toilets.

Consular Bureau

Offices for Chief of Bureau, assistant chief, anteroom, typewriters, four rooms for drafting clerks, reference library, map and file room, mailing room, packing room and consular school.

Bureau of Citizenship

Offices for Chief of Bureau, assistant chief, anteroom, clerical force, passport room, two fire rooms, seal and stationery.

Bureau of Information

Office for Chief of Division, assistant chief, anteroom, newspaper clipping room, two file rooms, editorial room, vaults and toilet.

Bureau of Accounts

Offices for Chief of Bureau, burglar and fireproof vault, anteroom, private office, three additional offices, file room (fireproof), vault and toilets.

Bureau of Appointments

Office for Chief of Bureau, assistant chief, anteroom, two rooms for clerks, file room, vault and toilet.

Index Bureau

Offices for Chief of Bureau, vault and toilet, cipher room for vault, telegraph room, large room for the clerical force, room for the indexes of old records, three rooms for research work, with its office, two

rooms for ministers, room for unbound files, room for bound files, filing space for future years, telephone and telegraph room, with living rooms, bedrooms, toilets and baths.

Translators

Main office and two general offices, two stenographer's rooms and file room.

THE END

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INDEX

INDEX

Accounts, Bureau of: formed, 223; salary of chief, 229; under Third Assistant Secretary, 424; duties, 425.

Acts of Congress. See Laws.

Adams, John: on committee to prepare instructions for commissioners, 4; on committee on neutrality, 7; mode of living, 28; salary, 30, 36; sends ratifications of Amendment of Constitution to Congress, 172; on committee on seal, 249; applications for office to, 273; receives Declaration of Independence, 295.

Adams, John Quincy: instructs for census, 126; sends *Commercial Digest,* 145; on commercial information, 146; records loss of papers, 200; salary, 201; recommends new Department, 211; orders laws recorded, 276; sends Declaration of Independence, 295; edits *Journal of Constitutional Convention,* 314; portraits of, 329; issues diplomatic instructions, 331.

Adams, Samuel: on committee on ceremonial for French minister, 9.

Address to the King, 1.

"Administrative Officers," 242.

"Advisory Officers," 243.

Alden, Roger: commended by Thomson, 76; has charge of records, 76, 187; has charge of domestic affairs, 94; resigns, 95; custodian of seal, 261.

Algiers: consul at, 115; privateering against, 157.

Allen, Andrew Hussey: edits *Documentary History of Constitution,* 315; issues lists of books, 326.

Applications for Office: where deposited, 87, 273; transferred to Library of Congress, 274.

Appointments, Bureau: created, 229; duties, 272, 425.

Arbitrations, International, *Digest and History,* 320.

Archives: indexing and filing methods, 415; classes of, 416; new system, 418; present classification, 418.

Archives, Keeper of the: office established, 208.

Archives, Laws and Commissions, Bureau of, 205; abolished, 208.

Arms of United States. See Seal of the United States.

Ashburton, Alexander Baring, Lord: portrait, 329.

Assistant Chiefs of Bureaus and Divisions, 247.

Attorney-General: office in State Department, 128.

Attorneys, U. S.: correspond with State Department, 128.

Austria: envoy to, 5.

Authentications: fee, 74, 385; signature of, 383; to what made, 386; form of, 387; rules, 390.

Baldwin, Abraham: on committee for departments, 62; presents bill, 63.
Barbary Coast: consuls to, 115.
Barclay, Thomas: Consul-General, 81, 110.
Barley, John: clerk; salary, 201.
Bartle, George: custodian of seal, 261.
Barton, Benjamin Smith: Jefferson writes to, 94.
Barton, William: designs seal, 250.
Bayard, Thomas F.: sends special messenger for electoral vote, 160; asks Chief Clerk to resign, 190; buys bust of Madison, 327.
Bell, A.: takes Declaration of Independence to Philadelphia, 307.
Benson, Egbert: proposes departments, 59; on committee on departments, 63; on removability, 64; on Home Department, 69.
Biennial Register or Blue Book, 142.
Billings, John S.: on Declaration of Independence, 312.
Bills of Exchange: how bought, 114.
Bioren, Duane and Weightman: edition of laws, 285.
Blackwell, Jacob: clerk, 80.
Blaine, James G.: urges purchase of portraits, 328.
Blair, Francis Preston: prints Diplomatic Correspondence, 319.
Blount, William: reports on Territory Southwest of Ohio, 133.
Blue Book (Biennial Register), 142.
Bollan, William: agent of Massachusetts, 1.
Boudinot, Elias: on removability, 60; on committee on seal, 250.
Brent, Daniel: clerk, salary and duties, 192; Chief Clerk, 200; Consul at Paris, 202; has journal of Constitutional Convention, 315.
Brown, Andrew: prints laws, 286.
Brown, James: Commissioner of Immigration at New York, 141.
Brown, John: on committee on Department, 49.
Brown, Sevellon A.: asked to resign as Chief Clerk, 190.
Brunner, Arnold W.: describes new Department building, 430.
Bryan, Henry L.: special messenger to receive electoral vote, 161; edits treaties, 317.
Buck, John R.: on classification of archives, 418.
Bureau of Foreign Commerce. See Foreign Commerce, Bureau of.
Bureaus: abolished, 221; recognized by law, 228; chiefs, how appointed, 229; salaries, 229.
Burke, Ædanus: on committee on departments, 63.
Burke, Edmund: agent of New York, 1.

Cabinet meetings: how called, 88.
Cadwalader, John L., edits treaties, 316; edits International Law Digest, 317.
Calhoun, John C.: resigns Vice-Presidency, 167, 168; on clerks in Department, 218; on bureaus, 232.
Campbell, Anthony: clerk in Treasury Department, 99.
Canary Islands: consul for, 116.
Carmichael, William: Secretary at

Madrid; salary, 29, 30, 36; Chargé; salary, 81.
Carpenters' Hall, 1, 427.
Carroll, Charles, of Carrollton: receives Declaration of Independence, 296.
Cattle and Dairy Farming, 151.
Census: under State Department, 124; publications, 127; transferred, 128.
Cent, copper: coined, 93.
Ceracchi, Giuseppe: bust of Madison, 327.
Ceremonial for Foreign Ministers, 9.
Chadwick, French C.: on Seal, 254.
Champlin, John Denison, Jr.: on Seal of U. S., 252.
Chandler, Charles F.: on Declaration of Independence, 300, 312.
Chandler, Z.: on exhibition of Declaration of Independence, 302, 304; returns document to State Department, 309.
Chase, Samuel: on committee on Franklin's Commission to Spain, 5.
Chew, Robert S.: Chief Clerk, 202.
Chief Clerk, Department of State: salary, 75, 97, 188, 201, 220; authority of, 85; duties, 203, 211, 220; Bureau, 222.
Childs, George W.: asks Declaration of Independence for Centennial Exposition, 303.
Ciphers in Department of Foreign Affairs, 37.
Citizenship, Bureau of: created, 241; under Solicitor, 424; duties, 425.
Citizenship: expatriation, protection, Board to report on, formed, 367; reports, 367.
Claiborne, William Charles Cole: reports on Louisiana, 135.
Claims Clerk: created, 221.
Clay, Henry: portrait, 328.
Clerks, Department of State: salaries, 75, 97, 188, 220; principal, 95; are officers, 98; extra allowance, 188; power of President over, 189; increase of, 219; classification, 219; commissions, 270; oaths of office, 271.
Cleveland, Grover: signs *Consular Regulations*, 333.
Clymer, George: on committee to investigate Department, 30; nominated for Secretary of Foreign Affairs, 34.
Colvin, John B.: clerk; salary, 201; editor of laws, 285.
Commerce and Finance: Secretary of, proposed, 56.
Commercial Digest, 145.
Commercial Relations, Bureau of: suggested, 237.
Commercial Relations: volumes, 144.
Commissions: continuance of, 104; of postmasters, 259; of officers under Interior Department, 259; of judicial officers, 259; forms, 263; of clerks, 269, 270.
Confederation, Articles of: provide for foreign affairs, 2.
Constitution, Amendments to: how proclaimed, 168, 174, 175, 178; ratifications, 169; to be published, 174; sent to governors, 177; publication, 314; convention to frame journal, 314; documentary history of, 315.
Consul, salary, 30.
Consular Bureau: duties of, 204, 213, 424; First and Second,

223; oldest, 230; under Director of Consular Service, 424.
Consular Convention with France, 79.
Consular Regulations: publication, 331.
"Consular Reports": publication, 147; *Advance Sheets,* 151; *Daily Consular Trade Reports,* 152.
Consular Service: Director of, 244; act remodeling, 334.
Consuls: salaries, 116, 333; how appointed, 116, 333, 334, 335; number, by Jefferson, 230; examination, 335.
Continental Congress: papers of, 324.
Copyright Business: under State Department, 122; transferred, 124; Bureau of, 205.
Council of State: proposed, 56.
Counselor of Department, 244.
Crandall, Samuel B.: Secretary of Citizenship Board, 367.
Crawford, William: clerk; salary, 191.
Culnan, John: Consul to Canary Islands, 116.

Dana, Francis: salary of, 28.
Dane, Nathan: favors checking negotiations with Spain, 51.
Davis and Force: publishers of laws, 285, 286.
Davis, J. C. Bancroft: edits treaties, 316.
Davis, W. A.: publisher of the laws, 285.
Day, William R.: issues rules for passports, 353.
Dean, Charles Ray: custodian of seal, 262.
Deane, Silas: first representative abroad, 4; instructions, 4; signs treaty of alliance with France, 8; uses invisible ink, 37.
Declaration of Independence: publication, 295; distribution, 295; deterioration of document, 297, 312; exhibited, 297, 301; efforts to restore, 298; report on condition, 300, 312; where deposited, 306, 309; efforts to retain in Philadelphia, 308; desk on which written, 327.
Declaration of Intention to Become a Citizen: passports for those who have made, 368.
Dennie, Joseph: clerk; salary, 191.
Department of State. See State, Department of.
Departments, Executive. See Executive Departments.
Dickinson, John: proposes Articles of Confederation, 2; member of Committee of Secret Correspondence, 3; drafts instructions to peace commissioners, 11.
Diplomatic Bureau: duties of, 204, 211, 424; First and Second, 222; oldest, 230.
Diplomatic Correspondence: volumes, 320.
Diplomatic Correspondence of Revolution: publications, 319.
Diplomatic Instructions: publication, 331.
Diplomatic officers: allowance for, 109.
Diplomatic Service: appointments in, 343; information for applicants, 348.
Disbursing Agent: established, 208; duties, 216.
Disbursing and Superintending Bureau, 205; abolished, 208.
Domestic Affairs: secretary proposed, 56.

Domestic Department: proposed, 59.
Domestic Records, Bureau of: formed, 223; changed, 226.
Drayton, William Henry: member of Committee for Foreign Affairs, 8.
Duane & Son: printers of the laws, 285.
Duane, James: draws up report on Department of Foreign Affairs, 15.
Duane, William: printer of the laws, 284.
Duell, H. H.: reports on Declaration of Independence, 306.
Duer, William: member of Committee for Foreign Affairs, 8.
Dumas, Charles W. F.: American agent, 3; salary, 30, 36, 81.
Du Ponceau, Peter S.: Second Under-Secretary for Foreign Affairs, 18; salary, 30, 37; house, 427.
Dwight, Theodore F.: on seal of U. S., 252; issues lists of books, 325.
Dyer, Eliphalet: member of Committee for Foreign Affairs, 8.

Edwards, Tunis: favors checking negotiations with Spain, 51.
Electoral vote: to be delivered to Secretary of State, 159; messenger to obtain, 160; certificates of election of electors, 162; circular to states, 163; publication, 164; sent to Congress, 165.
Ellery, William: on committee to confer with Livingston, 20.
Elliot, Jonathan: edits treaties, 316.
Elliot, William: clerk, 201.
Ellsworth, Oliver: member of Committee for Foreign Affairs, 8; proposes executive council, 55.
Emigration and Immigration, 151.
Emory, Frederic: begins *Advance Sheets*, 151; proposes change of name of Bureau of Statistics, 233; proposes Bureau of Commercial Relations, 237; chief of Bureau of Trade Relations, 238.
European Affairs, Division of: salary of chief, 245.
Etting, Frank M.: asks for Declaration of Independence for Centennial Exposition, 301.
Evarts, William M.: opinion on clerks, 98; sends "Consular Reports," 148; calls for commercial information, 149.
Eveleigh, Nicholas: on committee to confer with Livingston, 20.
Examiner of Claims: provided, 202.
Executive Departments: under Constitution, 54; cease, 58; President's power, 91.
Exequaturs and Commissions, Bureau of: created, 221.
Exhibitions, International. See Expositions, International.
Expositions: International, 178; Crystal Palace, 182; Universal, Paris, 183; Japanese, 185; Panama-Pacific, 185.
Extradition: early practice, 402; reciprocal, 403; treaties, 404; the mandate, 404; warrant of surrender, 406; President's warrant, 407; rules, 409; with Mexico, 413; managed by Solicitor, 414.

Faison, Walter E.: makes memorandum on passport fee, 357.
Far Eastern Affairs, Division of: formed, 242; salary of chief, 245; duties of, 246, 424.
Fenwick, Robert: messenger, 201.
Finance, Department of: provision proposed, 58.
Fish, Hamilton: circular on Centennial Exposition, 179; reorganizes Department, 218, 222; portrait of, 330.
Fisher, John: commended by Thomson, 76.
Flagg, Edmund: Superintendent of Statistical Office, 144, 233.
Folwell, Richard: edition of laws, 283.
Foreign Affairs: conducted by Congress, 2.
Foreign Affairs Committee: formed, 6.
Foreign Affairs, Department of: plan, 14; act, 15; organized, 17; personnel, 18; First Under-Secretary, 18; Second Under-Secretary, 18; inventory, 20; reorganized, 22; salaries, 30; business of, 30; personnel and salaries, 36; papers to Secretary of Congress, 40; Under-Secretary proposed, 42; agreed to, 43; duties defined, 44; arrangement for Under-Secretaries, 46; report on, 49; proposed, 59, 62; bill introduced, 64; Chief Clerk of, 64, 66; bill passes House, 65; act, 67; proposed change of name, 70; information of creation of, 76; estimates, 80; communicates with states, 101; hours for business, 226; buildings occupied, 427.
Foreign Affairs, Secretary of, 16; duties, 22; election proposed, 40, 41; Jay elected, 43; salary, 47; may inspect letters, 47; only two, 52; proposed under Constitution, 56; removability of, 59, 64.
Foreign Commerce, Bureau of: transferred, 152, 236; name proposed, 233.
Foreign Office, English: clerks ask gratuity, 189.
Foreign Relations: volumes, 320.
Foreign Service: estimates for, 110.
Foreign Trade Advisers: office, 247.
Forrest, Richard: clerk; salary and duties, 193; salary, 201.
Forsyth, John: letter on commerce, 145; arranges Department, 207, 211.
France: alliance with, 8.
Franklin, Benjamin: agent of Massachusetts, Pennsylvania, New Jersey and Georgia, 1; member of Committee of Secret Correspondence, 3; diplomatic commissioner, 4; minister to Spain, 4; signs treaty of alliance with France, 8; mode of living, 28; salary, 30, 36; action on death of, 83; on committee on seal, 249; manuscripts of, 323; staff of, 326.
Franklin, William B.: Commissioner-General to Paris Exhibition, 184.
Franklin, William Temple: Secretary to Benjamin Franklin; salary, 36.
Fraunce's Tavern, 428.
Frelinghuysen, Theodore F.: urges

cutting of new seal, 252; portrait of, 330.
Freneau, Philip: translator, 97.
"Full Powers" for treaties: how made, 398.
Fulton, Robert: complains of Thornton, 119.

Gardner, I.: occasional service, 193.
Gardner, William P.: clerk in Treasury Department, 99; informs President of Wagner's opinions, 194.
Gardoqui, Don Diego de, Spanish Minister: negotiates with Jay, 48; writes Jay, 79.
Garth, Charles: agent of South Carolina, 1.
Georgia Mississippi Company. See Yazoo lands.
Gérard, Conrad Alexander: first minister, 8; also Consul-General, 8.
Germany: envoy to, 5.
Gerry, Elbridge: moves that papers of Department of Foreign Affairs be made accessible, 41; moves for Under-Secretary, 42; nominates Jay, 42; on arrangement for Under-Secretary, 46.
Gibbs, Wolcott: on Declaration of Independence, 300.
Gibert, Jean Baptiste Adolphe: portrait by, 329.
Gideon, J. and G. S.: printers of laws, 285.
Gilman, John Taylor: on committee to confer with Livingston, 33.
Gordon, Thomas F.: compiles laws, 286.
Graham, John: clerk; oath, 99; chief clerk, 194; saves records, 195, 196; retires, 200.
Great Seal. See Seal of the United States.
Gresham, Walter Q.: has chiefs appointed by President, 228.

Hamilton, Alexander: moves thanks to Livingston, 39; favors checking negotiations with Spain, 51; plans departments, 55; manuscripts of, 323.
Hardy, Samuel: on committee to define Department's duties, 46.
Harrison, Benjamin: member of Committee of Secret Correspondence, 3; member of Committee for Foreign Affairs, 6.
Harrison, Richard: Consul at Cadiz, 31.
Haswell, John H.: edits treaties, 316.
Hay, John: changes name of Bureau of Foreign Commerce, 238; creates Passport Bureau, 239.
Hayward, Thomas, Jr.: on Committee for Foreign Affairs, 6.
Healy, G. P. A.: portraits by, 329.
Higginson, Stephen: on committee to confer with Livingston, 34.
Hilgard, J. E.: on Declaration of Independence, 300.
Hill, David Jayne: member of Citizenship Board, 367.
Home Bureau: duties, 204; enlarged, 207, 214.
Home Department: proposed, 59, 68.
Hooper, William: on Committee of Secret Correspondence, 5.
Hopkins, Samuel: receives patent, 118.

Houston, William Churchill: member of Committee for Foreign Affairs, 8; on committee on seal, 249.
Hull, Isaac: punch bowl and swords, 326.
Humphreys, David: salary, 113.
Hunt, Gaillard: recommends change of name of Passport Bureau, 241; member of Citizenship Board, 367.
Huntington, Benjamin: on Home Department, 69.
Huntington, Daniel: portraits, 330.
Huntington, Samuel: drafts instructions to peace commissioners, 11.

Immigration: Commissioner of, under State Department, 141; Bureau of, abolished, 142; transferred, 142.
Impressments: lists of, 142.
Independence Hall, 427.
Indexes and Archives, Bureau: created, 226; duties, 425.
Indian treaties: how made, 396.
Information, Division of: formed, 242; duties, 246, 425.
Ingalls, John J.: reports nondelivery of Florida vote, 160.
Insular Possessions: passports for residents of, 373.
International Law Digests, 317.
Introduction, Letters of: form of, 391; limitations of, 391; abolished, 392; resumed, 394.
Ironside, George: clerk; salary, 201.
Izard, Ralph: commissioner to Tuscany, 5; on committee to investigate Department, 30; on committee to confer with Livingston, 34.

Jackson, Andrew: regulations for clerks, 189; recommends enlargement of Department, 210; applications for office under, 274; sword of, 326; seconds report on Consular Service, 334.
Jackson, James: on removability of Secretary, 60.
Jackson, William: turns over *Journal of Constitutional Convention*, 314.
James, Charles P.: edits *International Law Digest*, 317.
Jay, John: member of Committee of Secret Correspondence, 3; expenses as commissioner for peace, 12; complains of Committee for Foreign Affairs, 13; mode of living, 28; proposed for Secretary of Foreign Affairs, 32; salary, 36; deciphers letters, 37; elected Secretary of Foreign Affairs, 43; asks what his duties are, 44; asks increase of powers, 48; delegate to convention to ratify Constitution, 49; reports on Department of State, 75, 79; nominated to be Chief Justice, 77; submits estimates, 80.
Jefferson, Thomas: diplomatic commissioner, 4; proposed for Secretary for Foreign Affairs, 32; salary, 36; on committee on papers, 41; moves that papers be accessible, 42; nominated to be Secretary of State, 77; accepts, 77; salary as minister, 80; deposits papers, 86; reports to President, 89, 90; sends drafts of letters, 90; describes his duties, 92; on post-office, 92; on Chief Clerk, 94; on communications with states, 101; on

continuance of offices, 104; letter on commerce, 145; instructs consuls, 230; on committee on seal, 249; applications for office under, 273; receives Declaration of Independence, 296; manuscripts of, 323; desk of, 327.

Johnson, Thomas: member of Committee of Secret Correspondence, 3.

Jones, Thomas P.: in charge of patent business, 120.

Judges, Federal: correspond with State Department, 128.

Kasson, John A.: special commissioner, 397.

Keeper of the Rolls: office created, 226.

Kimball, Hazen: clerk; salary, 191.

King, Josias W.: clerk; saves records, 196; salary, 201.

King, Pendleton: nominated Chief of Bureau of Indexes and Archives, 228.

King, Rufus: on committee to form Department of State, 72; asked for gratuity by clerks in foreign office, 189.

Knox, Philander C.: reorganizes Department, 242; proposes Under-Secretary and Fourth Assistant Secretary, 243; instructions on Letters of Introduction, 394.

Laurens, Henry: drafts instructions to peace commissioners, 11; salary, 30, 36.

Labor: circular, 150; in Europe, 151.

Land Patents: countersigned by Secretary of State, 136; transferred, 136.

Latin-American Affairs, Division of: formed, 242; salary of chief, 245; duties, 246.

Law Bureau: formed, 223.

Law Clerk: duties, 425.

Law, John: Commissioner for Claims, 139.

Laws: promulgation of, 71; by Secretary of State, 73; of States, 74; sent to Governors, 103; sent to State Department, 275; how printed, 275, 276; originals preserved, 275; recorded, 276; publication, 277; editor, 283; editions, 283; distribution, 284, 287; statutes at large, 286; Secretary of State to publish, 287; revised statutes, 289; proclamations and treaties, 292; executive orders, 292; sale of, 293.

Lear, Tobias: sends papers to Alden, 81.

Lee, Arthur: agent of Massachusetts, 1; on committee to prepare instructions for commissioners, 4; commissioner to Spain, 5; commercial agent, 5; signs treaty of alliance with France, 8; nominated for Secretary for Foreign Affairs, 16; on committee to confer with Livingston, 34; on committee on papers, 41.

Lee, John: messenger; salary, 191.

Lee, Richard Henry: drafts instructions to American agents in London, 1; on committee to prepare instructions for commissioners, 4; on Committee of Secret Correspondence, 5; on

committee on neutrality, 7; on committee on ceremonial for French minister, 9.
Lee, William: commissioner to Germany and Prussia, 5; to Vienna, 5.
Leftridge, Robert P.: assistant messenger, 238.
Letters: royal, form, 267; of credence, 268.
L'Hommedieu, Ezra: on committee on Department, 49.
Librarian: office created, 221; dropped, 221; first, 322.
Library: issues publications, 321; founded, 321; burned, 322; special field, 322, 325; newspapers, 323; state laws, 323; historical manuscripts, 323; catalogues and lists, 325; relics and gifts, 326.
Library of Congress: receives historical manuscripts, 324.
Life, Thomas: agent of Connecticut, 1.
Little, Brown & Co.: edition of laws, 283, 286.
Livermore, Samuel: thinks Treasury Department most important, 59; on committee on departments, 62.
Livingston, Edward: reports on Consular Service, 334.
Livingston, Philip: house, 428.
Livingston, Robert R.: member of Committee for Foreign Affairs, 8; nominated and elected Secretary of Foreign Affairs, 16; commission, 17; organizes Department, 17; sets forth difficulties, 18; salary, 30; determines to resign, 32; resignation presented, 33; letter to committee on Department, 34; wishes to sign treaty of peace, 38; estimate of, 39; Congress thanks, 39.
Lovell, James: on Committee for Foreign Affairs, 6; activity of, 7; on committee on Jay's expenditures, 12; complains of committee, 13; final acts, 17; on committee on seal, 249.

McClurg, James: proposed for Secretary of Foreign Affairs, 34.
McCormick, Andrew T.: clerk; salary, 201.
McGuire, J. C., Estate: sells bust of Madison, 327.
McKean, Thomas: drafts instructions to peace commissioners, 11; nominates Arthur Lee for Secretary for Foreign Affairs, 15; reports on Livingston's resignation, 33.
McLane, Louis: memorandum on Department, 203.
Madison, James: on committee on Franklin's Commission to Spain, 5; on committee to investigate Department, 30; moves to enlarge Secretary's powers, 32; reports on Livingston's resignation, 38; on functions of Department of Foreign Affairs, 45; favors checking negotiations with Spain, 51; on removability, 61; on committee on departments, 63; on President's power over departments, 91; opinion on communications to states, 101; privateers' instructions, 156; proposes amendments to Constitution, 168; reports officers and clerks, 191; recommends

additional Department, 210, 211; applications for office under, 273; bust of, 326.
Mail Division: created, 226.
Malloy, William M.: edits treaties, 317.
Mane, William: assistant, 201.
Marchant, Edward Dalton: portraits of Clay and Adams, 328.
Marcy, William L.: issues *Consular Regulations*, 332.
Marine, Secretary of: proposed, 57.
Marschalk, Andrew: clerk, 238.
Marshall, John: salary, 191.
Marshals, Federal: correspond with State Department, 128.
Matthews, George: on committee on new Department, 71.
Maury, Fontaine: clerk, 201.
Medals for Foreign Ministers, 113.
Middleton, Arthur: on committee on seal, 250.
Miller, John C.: clerk; salary, 191.
Ministers Abroad: mode of living, 28.
Mint: under State Department, 93.
Monroe, James: on committee to define Department's duties, 46; in War of 1812, 196; reports on records saved, 199; recommends new Department, 211; applications for office under, 273; plans publication of laws, 285; manuscripts of, 323.
Moore, John Bassett: edits *International Law Digest*, 318; edits *International Arbitrations*, 320.
Morocco: consul at, 110.
Morris, Gouverneur: on committee on ceremonial with French minister, 9; instructs peace commissioners, 11; proposes Council of State, 55; salary, 113.
Morris, Lewis R.: First Under-Secretary for Foreign Affairs, 18; salary, 30, 36; leaves, 40.
Morris, Robert: on committee to prepare instructions for commissioners, 4; on Committee of Secret Correspondence, 5; on Committee for Foreign Affairs, 6.
Morris, Thomas: commercial agent, 5.
Mosher, Robert Brent: custodian of seal, 262.

National Museum, The: Declaration of Independence in, 306.
Near Eastern Affairs, Division of: formed, 242; salary of chief, 245; duties of, 246, 424.
Neutrality: Portugal's attitude, 7.
Nominations: form of, 262.
Norton, Charles Eliot: on seal of U. S., 252.

Oath of Office: form of, 98, 271.
Okie, Abraham: Doorkeeper, 80.
Olney, Richard: asks opinion on mode of appointing chiefs, 229; issues rules for passports, 353; recommends new building, 430.
Orphan Asylum Building: occupied by State Department, 429.
Osgood, Samuel: on committee on papers, 41; on committee on Under-Secretary, 42; Postmaster-General, 93.
Otis, Samuel A.: on committee on Department, 49.

Paine, Thomas: Secretary of Committee for Foreign Affairs, 6.

Palfrey, William: First Consul, 333.
Pardons and Commissions, Bureau: formed, 224.
Pardons and Remissions, Bureau of, 205.
Pardons: transferred from State Department, 130, 259.
Passengers: lists of, 141.
Passport Bureau: formed, 224; under Bureau of Accounts, 239; separated, 239; accountability, 239; name changed, 240.
Passports: kinds of, 350; first issued, 351; law, 353; rules, 353, 361, 381; form, 354; special, 355, 356; fee, 356; number issued, 360; qualified, 368; for residents of insular possessions, 373; for foreign ministers, 378; signature of, 380.
Patent: first one issued, 118.
Patent Office: formed, 118; moved, 121; records saved, 198; arrangement, 205.
Patents: under State Department, 117; how issued, 117; commissioner created, 122.
Paterson, William: on committee to form Department of State, 72.
Peace, Treaty of, with Great Britain: discussed, 11.
Peale, Charles Willson: portrait of Washington, 330.
Perkins, James Breck: reports on citizenship and expatriation, 366.
Phillips, William Hallett: editor *International Law Digest*, 318.
Pickering, Timothy: Postmaster-General, 92, 93; receipts for *Journal of Constitutional Convention*, 315.
Pinckney, Charles: on Under-Secretary, 46; moves authority to inspect letters, 47; proposes Council of State, 56.
Pintard, John: interpreter, 80.
Pinto, Isaac: interpreter, 97.
Platt, Zephaniah: on committee to define Department's duties, 46.
Pleasonton, Stephen: clerk; salary, 191; duties, 192; saves records, 196; custodian of seal, 261.
Porto Rico: under State Department, 135; transferred, 136.
Portraits of Secretaries of State, 327.
Portugal, King of: forbids entrance of American vessels, 7.
Post-Office: under Treasury Department, 93.
Postal Conventions: how made, 396.
President and Vice-President: election of, 158; special election, 166; refusal of election, 167; resignation, 167.
President, The: power over State Department, 84, 91; over foreign affairs, 105; over clerks, 189; reports on foreign affairs, 321.
Privateering: regulations, 152.
Prussia: envoy to, 5.
Public Lands: under Treasury Department, 136.
Putnam, Rufus: Judge in Northwestern Territory, 90.

Randolph, Edmund: on committee to confer with Livingston, 20.
Read, George: nominated for Secretary of Foreign Affairs, 34; on committee to form Department of State, 72.
Read, Jacob: on committee on

Under-Secretary, 42; on committee to define Department's duties, 46; reports on Under-Secretary, 46.
Registration Abroad: certificates filed, 382.
Reid, Randolph: on committee on Department, 49.
Relics and Presents, 326.
Remsen, Henry, Jr.: elected Under-Secretary for Foreign Affairs, 43; keeps records, 77, 187; has charge of Foreign Affairs, 94; Chief Clerk, 95, 187; resigns, 95; in charge of patents, 118.
Remsen, Ira: on Declaration of Independence, 312.
Revolutionary Muster Rolls: sent to War Department, 325.
Rittenhouse, David: makes cent, 93.
Rockhill, William W.: on Seal, 255.
Rogers, R. E.: on Declaration of Independence, 300.
Rogers, William B.: on Declaration of Independence, 299.
Rolls and Library, Bureau: created, 226; dropped, 229; under Third Assistant Secretary, 424; duties, 425.
Roosevelt, Theodore: orders manuscripts transferred, 324; order for consuls' appointment, 335; for student interpreters, 341; rules for passports for residents of insular possessions, 374.
Root, Elihu: creates Bureau of Citizenship, 241; makes rules for passports, 381; orders reclassification of archives, 418.
Royal Letters. See Letters, royal.
Ruggles, Lemuel W.: dismissed from State Department, 190.
Rush, Richard: plans publication of laws, 284.
Russia: minister to, 29.
Rutledge, John: on committee to confer with Livingston, 33; on committee on seal, 250.

Salaries: of secretaries, 29; in Department and abroad, 30, 36; abroad, 107; appropriations, 188, 191, 201; of chiefs of bureau, 229, 230; of chiefs of division, 244, 245.
Santa Cruz, Island of: consul for, 116.
Sargent, Winthrop: reports on Territory Northwest of the Ohio, 132, 133.
Schenck, Robert C.: editor of the laws, 283.
Schurz, Carl: calls committee on Declaration of Independence, 298.
Schuyler, Philip: nominated for Secretary of Foreign Affairs, 34.
Scott, James Brown: member of Citizenship Board, 367.
Scott, John Morin: on committee on seal, 249.
Seal, Great. See Seal of the United States.
Seal of Department of State: authorized, 74; adopted, 100.
Seal of the United States: to be kept by Secretary of Foreign Affairs, 69; act for safe keeping, 71; rules for affixing, 73; in War of 1812, 198; kept by Secretary of State, 248; design of, 249; reverse, 252; first use, 252; second cut, 253; later seals,

253, 254; use prescribed, 256; "Great" Seal, 255; warrant for affixing, 258; to what affixed, 259; die, 260; reverse, 260; custodians, 261.

Secret Correspondence, Committee of: formed, 3.

Secret Committee of Congress, 6.

Sedgwick, Theodore: on Home Department, 70; proposes change in name of Department of Foreign Affairs, 70; on committee on new Department, 71; offers bill, 72.

Seward, Frederick W.: calls for reports on labor, 150.

Seward, William H.: proclaims amendment to Constitution, 174, 176.

Shand, Miles M.: custodian of seal, 262.

Sherman, John: changes name of Bureau of Statistics, 235.

Sherman, Roger: on committee on Under-Secretary, 42.

Short, William: salary as Secretary to Jefferson, 81.

"Six Buildings": State Department archives in, 429.

Smith, J. Laurence: on Declaration of Independence, 300.

Smith, Jonathan Bayard: member of Committee for Foreign Affairs, 8.

Smith, John N.: clerk; salary, 191; duties, 193.

Smith, Samuel Harrison: printer of the laws, 284.

Smith, William: on removability of Secretary, 60, 64.

Solicitor of Department: provided for, 202; manages extradition, 414.

Spaight, Richard Dobbs: on committee to define Department's duties, 46.

Spain, Treaty with: proposed, 4, 5, 48.

Sparks, Jared: edits *Diplomatic Correspondence,* 319.

Spofford, Ainsworth R.: on committee on Declaration of Independence, 298.

Stalnaker, Maud: clerk, 238.

State, Department of: bill introduced, 72; act passed, 72; duties, 73, 74; to have old records, 74; to collect state laws, 74; chief clerk, 75, 187; Acting Secretary, 85; deposit for President's papers, 87; scope of, 91; expense, 1790, 96; Seal, 100; communicates with State Governments, 101; patent business, 117; copyrights, 122; census, 124; Attorney-General, 128; judges, marshals, attorneys, 128; pardons, 130; territorial affairs, 131; Louisiana, 134; Porto Rico, 135; land patents, 136; Yazoo lands, 137; lists of passengers, 141; immigration, 141; impressments, 142; Biennial Register or Blue Book, 143; *Commercial Relations,* 144; *Consular Reports,* 147; privateers, 152; election of President, 158; to receive electoral vote, 159; election of electors, 162; Amendments to Constitution, 168; International Exposition, 178; salaries, 188, 191; officers and clerks, 1806, 191; building, fires, 195; records saved, 196, 199; Assistant Secretary, 202; Second Assistant Secretary, 202; Third Assistant Secretary, 202;

Examiner of Claims, 202; Solicitor, 202; McLane's arrangement, 203; Bureaus, 203, 204; hours of business, 206, 225; regulations, 207, 216; enlargement recommended, 210; arrangement, 221; commercial duties, 231; reorganized, 242; Under-Secretary and Fourth Assistant Secretary proposed, 243; act to extend commercial interests, 243; Counselor, 244; organization of, 245; rank of officers, 247; custody of laws, 275; annual report, 321; relics, 326; portraits, 327; records, 414; distribution of functions, 423; buildings, 427.

State, Secretary of: Secretary of Congress, 55; compensation of, 75; subordinate to President, 84; premier, 91; manages Mint, 93; impressments, 142; to call election of President, 166; may succeed to Presidency, 167; Assistants, 202; powers of, 227.

States, Governors of: correspondence with, 101, 103.

Statistical Bureau: formed, 223, 231, 233.

Statistical Office, 144, 231, 232.

Statistics, Bureau: salary, 229; change of name, 233.

Statistics, Superintendent of, 233.

Stone, Walter: clerk, Department of Foreign Affairs; salary, 37.

Stone, William J.: engraves Declaration of Independence, 296.

Student Interpreters: how appointed, 340, 341.

Supreme Court, Chief Justice: to propose changes in laws, 56; president of Council, 56.

Swann, Thomas: Commissioner for Claims, 139.

Taft, William H.: order for consuls' examinations, 339; for secretaries of legation, 344.

Taxation in Europe, 151.

Taylor, George, Jr.: clerk, 80; Chief Clerk, 95.

Telegraph Operator, 224.

Territorial Affairs: under State Department, 131; transferred, 135.

Territorial and Domestic Records, Bureau of: formed, 226.

Tetard, John P.: clerk and interpreter—Department of Foreign Affairs: salary, 30, 37.

Thom, Christopher S.: clerk; salary, 191; duties, 192.

Thomas, Isaiah, Jr.: copyrights Spelling Book, 123.

Thomson, Charles: transfers records, 75; on committee on seal, 250.

Thornton, William: First Superintendent of Patents, 119, 187; salary, 193; saves records, 198.

Thurston, Thomas L.: clerk, 201.

Tiffany & Co.: make seal, 253.

Trade Relations, Bureau of: formed, 231; duties, 236, 424; abolished, 247; office under Director of Consular Bureau, 424.

Translating and Miscellaneous Bureau, 205.

Translations, Bureau of: formed, 223.

Translator and Librarian: duties, 208.

Translator: salary, 97; duties, 215.

Translators: under Chief Clerk, 424; duties, 425.
Treasury Department: proposed, 59, 62; disclosures in, 99; has State Department archives temporarily, 428.
Treasury, Secretary of: accountability, 84.
Treaties: how negotiated and ratified, 48; how published, 276, 315, 316; how made, 397; how sent to Senate, 399; ratifications, 400; proclamations, 402.
Trenton State House: used for Department of Foreign Affairs, 428.
Tripoli: privateering against, 157.
Tucker, Thomas Tudor: on committee on Department, 49.
Tuscany: envoy to, 5.

Van Berckel, P. J.: minister from Netherlands, presented, 43.
Van Buren, Martin: recommends change in consular system, 334.
Varnum, James Mitchell: nominates Livingston for Secretary for Foreign Affairs, 16.
Vergennes, Count: American agents to confer with, 3.
Viar, Don Joseph de: Chargé of Spain, 80.
Vining, John: proposes Home Department, 59, 68; on committee on departments, 62.

Wagner, Jacob: Chief Clerk; salary, 191; duties, 192; federalist editor, 194; saves records, 195.
War Department: proposed, 59, 62; bill introduced, 64.
War Office: has State Department archives temporarily, 428.
War, Secretary of: proposed, 56.
Waring, Joseph: messenger, 201.
Washburne, Elihu B.: portrait of, 329.
Washington, George: asks report on Department, 75; declines direct communication with minister, 104; applications for office under, 273; commission as Commander-in-Chief, 306; sends journal of Constitutional Convention to State Department, 314; manuscripts, 323; sword of, 326; portrait of, 330.
Webster, Daniel: letter on commerce, 145, 231; has new seal made, 253; portrait of, 329.
Weightman, Roger C.: printer of the laws, 284.
Wentworth, Paul: agent of New Hampshire, 1.
Western European Affairs, Division of: formed, 242; duties of, 246, 424.
Wharton, Francis: edits *International Law Digest*, 318; edits *Diplomatic Correspondence*, 319.
White, Alexander: on removability, 61; on Home Department, 69.
Whitehouse, James Horton: designs seal, 253.
Whitmore, William H.: on Seal of U. S., 252.
Wilson, James: on committee on neutrality, 7.
Winsor, Justin: on Seal of U. S., 252.
Witherspoon, John: on Committee of Secret Correspondence, 5; member of Committee for Foreign Affairs, 8; on committee

on Jay's expenditures, 12; on committee to investigate Department, 30.
World's Fair: Boston, 181; Chicago, 182.
Wynkoop, Henry: on committee on new Department, 71.
Wythe, George: on committee to prepare instructions for commissioners, 4.

Yard, James: Consul at Santa Cruz, 116.
Yazoo Lands: under State Department, 137.
Young, Moses: clerk; salary, 201.

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